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UNITED STATES

CONSUL'S MANUAL.

THE

UNITED STATES

CONSUL'S MANUAL:

A

Practical Guide for Consular Officers,

AND ALSO FOR

MERCHANTS, SHIPOWNERS, AND MASTERS OF AMERICAN VESSELS
IN ALL THEIR CONSULAR TRANSACTIONS.

Compiled by George Bacon Abbot.

SECOND EDITION.

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PREFACE TO THE SECOND EDITION.

THE first edition of the Consular Manual being exhausted, and the demand for the work still continued, the publisher has taken the opportunity, in presenting to the public a new edition, to introduce several important statutes, having relation to the duties of consuls, recently enacted by Congress, and to make such corrections in the text as were thereby rendered necessary or have been suggested by experience.

DECEMBER, 1862.

PREFACE TO THE FIRST EDITION.

At the late session of Congress, an act was passed to regulate the diplomatic and consular systems of the United States. This act is of a most comprehensive character, and enters into much detail in relation to consular affairs, prescribing duties to be observed by merchants engaged in foreign trade, shipowners and shipmasters, collectors of customs, and American travellers in European countries; repeals many of the provisions of existing laws, and revives others, intimately affecting the shipping interests of the country, which were adopted more than half a century ago, and were subsequently repealed; abolishes all fees heretofore received by consuls, prescribes a new tariff of consular fees, and imposes heavy penalties for malfeasance and for neglecting the observance of the requisitions of the statute. The importance of these provisions, affecting as they do so many classes of the community, has suggested the publication of this volume for general information. It embraces, as will be perceived, the regulations of the Department of State for consular officers, and forms to be observed in the transaction of consular business.

It is believed that this work will be found useful to persons seeking appointments as consular officers, in furnishing them with information requisite for the discharge of consular duties, as well as to those engaged in foreign commerce. To shipmasters, especially, much of the information which it contains is indispensable under the provisions of recent statutes. In the exercise of their arduous and responsible vocation, they have frequent occasion for the services and assistance of consular officers, which must be rendered in accordance with the laws of the United States and the instructions of the Department of State, with both of which, so far as they relate to their own duties, shipmasters should be fully acquainted.

WASHINGTON, *December*, 1856.

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CONSULAR REGULATIONS.

CHAPTER I.

GENERAL REMARKS ON THE NATURE AND DUTIES OF THE CONSULAR OFFICE.

Meaning of the term "consuls" in the Constitution of U. S.

1. THE word "consuls,"[1] as used in the Constitution of the United States, designates a class of public officers appointed by their government to reside in foreign countries, chiefly in seaports and other places of commerce, to exercise administrative and sometimes, in countries not Christian, judicial functions in regard to their countrymen who dwell or may happen to be in the country where they reside; to aid in the authentication of documents abroad, and, generally, to discharge such other duties as may be assigned to them by the laws and orders of their government.

Classes of consular officers.

2. Accordingly, by various laws of the United States, duties are imposed and rights conferred on this description of public officers, under the names of consuls general, consuls, vice consuls, deputy consuls, commercial agents, vice commercial agents, and consular agents. It is provided by section thirty-one of the act of Congress approved August eighteen, eighteen hundred and fifty-six,[2] that these official designations shall be deemed to have the respective meanings therein assigned to them, namely: "consul general," "consul," and "commercial agent," shall be taken to

[1] Opinions of the Attorneys General, vol. vii. p. 248; 6 Wheaton, 168.
[2] Statutes at Large, vol. i. pp. 52–65.

denote full, principal, and permanent "consular officers," as distinguished from subordinates and substitutes; "deputy consul" and "consular agent" to denote "consular officers" subordinate to such principals, exercising the powers and performing the duties within the limits of their consulates or commercial agencies respectively—the former at the same ports or places, and the latter at ports or places different from those at which such principals are located respectively; and "vice consuls" and "vice commercial agents" to denote "consular officers" who shall be substituted, temporarily, to fill the places of "consuls general," "consuls," or "commercial agents," when they shall be temporarily absent or relieved from duty; and the term "consular officer" to include all such officers as are mentioned in the said section, and none others.

Application of acts of Congress to consular officers.

3. It is further provided by the same section that, in the construction and for the purposes of all other acts and parts of acts which shall remain in force after the act above mentioned may take effect, defining any of the powers, declaring any of the rights, prescribing any of the duties, or imposing any penalty or punishment for any act of omission or commission of any consul, commercial agent, vice consul, or vice commercial agent, or allowing or enjoining the performance of any act, matter, or thing, with or before any such officer, all such acts and parts of acts shall in all these several respects, so far as may be consistent with the subject-matter and context of the same and with the said act and the treaties of the United States, be deemed and taken to include and apply to all consular officers just as though all such officers were specifically named therein.

4. The important act of 1792 contains a declaratory provision, which is to be understood as implied in all other acts of Congress, as follows:

"The specification of certain powers and duties, * * *, to be exercised or performed by the consuls and vice consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act."[1]

Specification of certain consular powers and duties not to exclude others.

So that the powers and duties of consuls, besides being defined by acts of Congress, are indicated by general treaties and consular conventions entered into between the United States and other sovereign powers; and also by the regulations prescribed by the President through the Department of State.[2]

Consular functions, rights, and duties, how indicated and defined.

5. Consuls possess, moreover, by the law of nations, rights and privileges besides those which are granted by conventions, or declared by legislative acts or by regulations.[3]

International law as affecting consuls.

6. Their privileges necessarily arise from the character of their appointments; but they are not, like those of ambassadors and other public ministers, precisely defined by international law; and, consequently, they may be extended or limited among different nations, either by treaties or the legislative policy of those countries. Although the commissions which United States consuls receive from their government are expressed in the same terms and confer the same authority, yet, as the consular functions are to be exercised in a foreign country, and in accord-

Consular privileges, how extended and restricted.

Consular commissions, how to be understood.

[1] Statutes at Large, vol. i. p. 257.

[2] Statutes at Large, vol. xi. p. 60; Opinion of Judge Sprague in the case of the United States *v.* Williams *et al.*, MS. and Letter of the District Attorney of Massachusetts, Oct. 5, 1857.

[3] Idem.

ance with an exequatur issued by its sovereign, they may be more or less restricted. Whenever the immunities, rights, and duties of consuls are prescribed by mutual consular conventions, they are to be enjoyed or exercised in accordance with the stipulations of such conventions. In countries with which the United States have entered into no consular convention, consular officers may discharge such duties as are allowed by common usage, or are not forbidden by the laws of those countries; it being understood that such duties come within the general scope of official powers acknowledged by the commercial world; and usually they are permitted to exercise such privileges as are granted to foreign consuls by the United States within its own territory.

Effect of consular conventions.

Consular duties in countries with which the U. S. have no consular conventions.

7. If the authorities of the places where consuls reside oppose any obstacles to their enjoyment of the privileges which may have been accorded by consular conventions, or which, founded on usage or reciprocity, may have been claimed by themselves, they should refer the subject to the legation, to which they are subordinate, of the United States residing in the country, and report the facts, together with their own proceedings, and transmit a copy of all their correspondence in relation to it, to the Department of State, and await instructions. In no case should they strike the consular flag or abandon their posts without the express permission of the Department.

Duties of consuls when obstacles are interposed to the enjoyment of their privileges.

8. Consuls in Christian countries are not, legally speaking, public ministers of the State to which they belong, though, having an official character, they are under a more special protection of international law than uncommissioned individuals. This protection they have a right to claim, both from the State which

Consuls not diplomatic officers.

sends and from the State which admits them. But they are not diplomatic representatives of their respective countries, nor entitled to the privileges and immunities accorded to such representatives.[1]

Consular exequatur.

9. They are not, like public ministers, furnished with credential letters, but simply with a commission which authorizes them to watch over the commercial rights and privileges of the nations deputing them.[2] They cannot enter upon the discharge of their official duties without the permission of the sovereign authority of the country to which they are sent. This is given by an instrument which is termed an exequatur, and may at any time be revoked. As a general rule, consuls are amenable to the civil and criminal jurisdiction of the country in which they reside.[3] In the United States the Supreme Court possesses original jurisdiction in all cases affecting consuls, and the Federal jurisdiction is understood to be exclusive of the State courts.[4]

Consular privileges.

10. The privileges of consuls, so far as they are derived from the country in which they reside, are, generally speaking, an exemption from the liability to have soldiers quartered in their houses, and from personal service in the civic guards or militia.[5] Sometimes, as a matter of courtesy, and not of right, they are exempted from the payment of a personal tax,

Non-exemption from taxation.

[1] See section 212 of this volume, *infra*. Opinions of the Attorneys General, vol. i. pp. 41 and 406.

[2] Kent, Commentaries, vol. i. pp, 50–57.

[3] Phillimore's Commentaries upon International Law, vol. ii. pp. 240, 241; Vattel, p. 147; Wheaton's Elements, p. 305.

[4] Statutes at Large, vol. i. p. 18, and note; also Kent, vol. i. p. 45. See also Opinion of Supreme Court of New York in the case of the Rock River Bank *v.* Hoffman *et al.*, General Term, February, 1862, MS.

[5] De Martens, Le Guide Diplomatique, i. 388; Opinions of the Attorneys General, vol. ii. 725; Phillimore, vol. ii. pp. 240–251.

but not of other taxes, and more rarely from payment of duties at custom houses on their furniture and baggage.[1] No foreign consul residing in England is exempted from direct taxation except the Russian consul general.[2] In the United States no authority is given to the Treasury Department to exempt foreign consuls from the payment of custom house duties, and consequently the consuls of the United States in foreign countries cannot claim an exemption from the payment of similar duties. Consuls are usually allowed to grant or visa passports to the subjects or citizens of their own country living within their consular jurisdiction, but not to foreigners.[3] But consuls of the United States in countries in which there is a resident minister are not permitted to issue passports. In most countries consuls may require the assistance of the police, if necessary, to aid and assist them in the maintenance of their authority over insubordinate or mutinous seamen of their own country; generally, this is accorded by treaty stipulation; otherwise, it cannot be demanded as a matter of right, but only of comity.[4]

Issue or visa of passports.

Assistance of police.

Access to the chief authorities.

11. In cases where the ambassadors or public ministers of their own country are absent, or non-resident, they have a right of access to the authorities of the country in which they reside.[5] But this is not universally admitted. Sometimes it is permitted as an act of courtesy, and sometimes it is limited to corre-

[1] Phillimore, vol. ii. p. 244.

[2] Nature and Character of the Consular Service, by John Green. London, 1848, p. 21.

[3] Phillimore, vol. ii. p. 245. See Chapter xxx., *infra*.

[4] De Martens, Droit des Gens. i. 251; Fynn's British Consul Abroad, p. 17; Statutes at Large, vol. x. pp. 904, 998, 999; and Treaties of the United States, passim.

[5] Phillimore, vol. ii. p. 244.

spondence in regard to questions merely of a commercial character.[1]

12. As a general rule, the records and papers of the consulate are inviolable, and under no pretext to be seized or examined by the local authorities.[2] But this rule is by no means universally admitted, and the exemption is more frequently granted by treaty stipulation.[3] In Great Britain the consular property has been seized and held liable for the debt of a consul, for rent and taxes.[4]

Immunities of consular offices.

13. Consuls established in the towns and seaports of Europe are, in respect to civil matters, generally subject to the jurisdiction of the tribunals of the country in which they reside; and, of course, necessarily, in criminal cases. If they are in trade, they are treated, in questions relating thereto, on the same footing as all other merchants.[5]

Subjection to judicial tribunals.

14. The functions of consuls, in regard to their fellow-citizens, depend, in a great measure, upon the municipal law of their own country. No civil jurisdiction can be exercised by them over their fellow-countrymen without express authority of law, or by treaty stipulation of the State wherein they reside; and no Christian State has yet permitted the criminal jurisdiction of foreign consuls.[6]

Authority of consuls over their fellow-citizens.

15. The refusal to grant an exequatur or to receive

Refusal of exequatur.

[1] See Despatches of Consuls of the United States in Germany and at Havana, MSS., passim.

[2] Phillimore, vol. ii. p. 245.

[3] See Consular Conventions of the United States with France and with the Netherlands. Statutes at Large, vol. x. pp. 992, 1150.

[4] See Manchester Newspapers, 1858; also Guide Pratique par Le Clercq et De Vallat, p. 11.

[5] Martens, quoted by John Green, p. 24; Kent's Commentaries, vol. i. p. 54.

[6] Phillimore, vol. ii. p. 245.

a foreign consul is no breach of strict international law, as the institution of the consulate is a result of international comity.[1] In case of illegal or improper conduct, the consul is to be punished according to law, if the laws will reach the case, or be sent back; the offended government assigning to the other the reasons for the same.[2]

Foundation of consular authority.

16. As a general rule, and in the absence of any treaty upon the subject, the consul looks for his authority and functions to the commission by which he is appointed to his office, to the exequatur which empowers him to exercise them, and to any modifications made applicable to them by the particular laws or customs of the country in which he resides.[3]

Exercise of judicial powers.

17. In some places consuls have been invested with judicial powers to adjust disputes between merchants of their own country in foreign ports; this, however, is mostly limited to countries not Christian.[4]

Amenable to judicial tribunals.

18. In the application of the general rules of law to offences committed by consuls, nothing is better settled by the practice of all the States of Christendom than the doctrine that consuls are subject to criminal process for violation of the municipal laws. A foreign consul therefore has no just cause of complaint if, when charged with an offence, he is held amenable to the criminal jurisdiction of the United

[1] Phillimore, vol. ii. 245. See also Royal Order of Spain, 1845; and correspondence in regard to Consuls in Porto Rico, MS., 1845; also at Mauritius, 1852, at Genoa, 1853, MSS.; Kent, vol. i. p. 43.

[2] Statutes at Large of the United States, vol. viii. p. 230; Wheaton's Elements, note, p. 167; Opinions of the Attorneys General, vol. ii. p. 725. See Ex. Doc. Senate, No. 80, 1st Sess. 34th Cong.; Kent, vol. i. p. 44.

[3] De Martens, i. 260–5,

[4] See Statutes at Large, vol. xii. pp. 73, 79; Kent's Commentaries, vol. i. pp. 51, 57, notes; also, *infra*, chapters iii., iv., v., in regard to duties of consuls in China, Turkey, Japan, Siam, and other countries.

States. The only privilege which a consul enjoys in this respect in the United States is that awarded to him by the Constitution of being tried by the Federal courts; the effect of which is that his case remains within the control of the general government, which may deal with it according to the convenience or the exigencies of its foreign policy, without impediment from the authority of the individual States of the Union.[1]

Withdrawal of exequatur.

19. In addition to the ordinary means of redress, through the judicial tribunals, is that which is afforded by the law of nations. The sovereign authority of a State has the undoubted power, in its discretion, to withdraw the *exequatur* of any foreign consul. To justify the exercise of this power there is not needed the fact of technical violation of a law judicially proved. It may be exercised for any reasonable cause, whenever it is called for by the interest and honor of the nation.[2]

Personal demeanor.

20. One of the first duties of all consular officers is to exhibit in their official conduct, and in their intercourse with the local authorities and with the people of the country, a proper respect for the supreme authority.

Style of official communications.

21. In their communications with official functionaries, they are to be careful to set forth their views and opinions courteously but firmly, avoiding in all cases the use of violent or intemperate language. All discussions extended beyond the limits of a just moderation are injurious and defeat their own object.

Influence of personal character.

22. It is, by their personal influence and character, by circumspect conduct and a conciliatory spirit, that

[1] Opinions of the Attorneys General, vol. vii. pp. 384, 385.

[2] Idem, also section 15, supra.

consuls best succeed in settling difficulties and in the accomplishment of important objects. Commercial intercourse is a common bond of interest among all countries and all men, and it is by arguments drawn from this source, rather than by unreasonable pretensions and disputes, that injurious restrictions can be removed.[1]

Duties imposed by laws of the United States.

23. The laws of the United States on the subject of consuls and vice consuls specially authorize them to receive the protests of masters and others relating to American commerce, and they declare that consular certificates under seal shall receive faith and credit in the courts of the United States.[2] It is likewise made the duty of consular officers, where the laws of the country permit, to collect and remit the assets of the personal estates of American citizens who may die within their consulates leaving no legal representative, and to take charge of wrecks and secure the effects of stranded vessels, in the absence of the master, owner, or consignee; and they are bound to provide for destitute seamen within their consulates, and to send them, at the public expense, to the United States.[3] It is their duty, likewise, to reclaim deserters, to discountenance insubordination, and lend their aid to the local authorities for this purpose, to discharge seamen cruelly treated, and to receive from the masters of American vessels, on their arrival at a foreign port, and after the vessel shall have come to an entry, the registers, sea letters, and passports of such vessels.[4] These duties, and some others which are prescribed by legal enactment, are in accordance with the usages

[1] De Clercq, tome ii. p. 32, *et seq.*
[2] Statutes at Large, vol. i. p. 255; idem, vol. xi. p. 61.
[3] Idem, vol. i. p. 255.
[4] Idem, vol. i. p. 203.

of nations,[1] and with special treaty stipulations with certain countries.

Variety and importance of consular duties.

24. Many of the consular duties arise from peculiar circumstances: such as the character and habits of the nation in which the consul resides, its laws and customs, and the nature of its intercourse with the United States. In the most restricted sense, they are important and multifarious; are quite different from those of other officers employed in foreign affairs; and require for their proper performance an amount of practical information for which the consular officer needs a special training. Consuls are often so situated as to exercise towards their countrymen within their consular jurisdiction the duties of judges, arbiters, and peacemakers; they are the registers of marriages, births, and deaths; they act as notaries, and sometimes as revenue officers; they watch over and verify the sanitary condition of their consulates; and, through their social and official relations, they are able to obtain a full and accurate knowledge of the commerce, navigation, and industry peculiar to the country of their residence.[2]

[1] Kent, vol. i. p. 42; Wheaton's Elements of International Law, p. 166.

[2] "Après avoir été un ministre habile, que des choses il faut encore savoir pour être un bon consul! Car les attributions d'un consul sont variées a l'infini; elles sont d'un genre tout différent de celles des autres employés des affaires étrangères. Elles exigent une foule de connaissances pratiquées, pour lesquelles une éducation particulière est necessaire. Les consuls sont dans le cas d'exercer, dans l'etendue de leur arrondissement, vis-à-vis de leur compatriots, les fonctions de juge, d'arbitres, de conciliateurs; souvent ils sont officiers de l'état civil; ils remplissent l'emploi de notaries; quelquefois celui d'administrateurs de la marine; ils surveillent et constatent l'état sanitaire. Ce sont eux qui, par leurs relations habituelles, peuvent donner une idée juste et complête de la situation du commerce, de la navigation, et de l'industrie particulière au pays de leur résidence."—*Remarks of Talleyrand upon the Character of Count Rheinhard.*

Duties in respect to commercial regulations.

25. The commercial interests of their own country are, in a measure, committed to their care. They are to see whether the stipulations in commercial treaties are observed, and report all changes in commercial regulations and municipal ordinances. Every law, edict, or regulation of the government where they reside in any way affecting the commerce of the United States which comes to the knowledge of consular officers must be immediately transmitted to the Department; and, if it be a local regulation, operating only on a particular port, they must also give immediate notice thereof to the minister, if there be one in the country to which the district belongs.

Suggestions in regard to consular correspondence, and the transmission of new products, useful seeds, and samples.

26. Consular officers are expected, in their correspondence, to note all events which bear upon the commerce between the country where they reside and the United States, the establishment of new branches of industry within the limits of their consular jurisdiction, and the increase and decline of such as have been before established. They should also make such suggestions as, in their opinion, may lead to an increase of trade, and point out any circumstances which may have produced a contrary effect, with the means that appear proper for avoiding such a result. When new products of the arts, sciences, or manufactures appear to be valuable either for export or import, and this is not generally known, the fact should be communicated to the Department, and samples sent, if not too bulky, with the consular letters; otherwise, they may be addressed to the collector of some one of our principal ports. Seeds of plants and grain suitable for cultivation in the United States should also be sent. In general, the duties of a consular officer require an attention to everything

that can promote the commerce and navigation of this country, and the interests of its citizens.

Contentions to be avoided.

27. Consular officers are particularly cautioned not to enter into any contentions which can be avoided, either with their countrymen or the authorities of the country in which they reside; referring questions of that nature to the ministers to whom they are respectively subordinate, or to the Department of State; using every endeavor to settle in an amicable manner all disputes in which their countrymen may be concerned; and countenancing and protecting them before the authorities of the country in all cases in which they may be injured or oppressed, but withholding from them support when they have been willfully guilty of an infraction of the laws, particularly in any attempt to defraud the revenue. In this last case they will aid the proper officers in checking such practices.

Conduct to be observed by consular officers towards their countrymen.

Consular officers to abstain from participating in politics in the countries where they reside.

28. All consular officers are forbidden to participate in any manner whatever, directly or indirectly, in the political concerns of the countries by whose governments they are severally acknowledged and recognized in their public character; and they are to be on their guard against the enlistment of their feelings upon the side of any of the political or sectional parties which may exist in those countries. In their despatches upon such subjects, even to the Department of State, they will confine themselves to the communication of important or interesting public events, as they occur, in a clear and concise form, avoiding all unnecessary reflections or criticism upon the character or conduct of individuals or governments; and they will not give publicity, through the press or otherwise, to opinions or speculations injurious to the pub-

Limits to be observed in consular correspondence.

lic institutions of those countries, or the persons concerned in the administration of them; but it is, at the same time, no less their duty to report, freely and seasonably, to their own government, all important *facts* which may come to their knowledge, through authentic channels, touching the political condition of these countries, especially if their communications can be made subservient to, or may affect, the interest and well-being of their own.[1]

Prohibitions in regard to consular correspondence, recommendation of friends for foreign offices, acceptance of presents, etc.

29. All consular officers are prohibited from corresponding in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or with any other person than the proper officers of the United States; and from recommending any person, at home or abroad, for any employment of trust or profit under the government of the country in which they are located; as well as from asking or accepting, for themselves or any other person or persons, any present, emolument, pecuniary favor, office, or title of any kind, from any such government.[2]

Assumption of diplomatic functions prohibited.

30. As consuls, excepting in some Mohammedan States, are not invested with diplomatic powers, they are not entitled to communicate directly, except under special circumstances, with the government of the country in which they reside. Consular officers are prohibited from exercising diplomatic functions, or holding any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or country to which they shall be appointed, or any other country or government, when there shall be in such country any officer of the

[1] De Clercq, tome ii. pp. 34, 35.
[2] Statutes at Large, vol. i. p. 15.

United States authorized to perform diplomatic functions therein, unless expressly authorized by the President.[1]

31. When an application is to be made to such government, it must be done through the minister of the United States, if there be one; if not, and the case should require it, the consul may address the proper department, but in respectful terms, stating the exigency of the case, and that an application to the subordinate officers could not be made, or that it had proved ineffectual.

Mode of addressing foreign governments.

32. It is the duty of a consul to be conversant with all treaties, and with all commercial and consular conventions; he should possess a thorough knowledge of the law of nations, and of the maritime and mercantile laws of his own country, as well as those of the country in which he resides, and also an acquaintance with its history and language, its manners and customs.[2]

Consular officers to be conversant with treaties, conventions, and regulations affecting their own functions.

[1] Statutes at Large, vol. xi. p. 56.

[2] Kent, vol. i. p. 44; Opinions of the Attorneys General, vol. i. pp. 41, 77, 406; vol. ii. p. 725; De Clercq, Formulaire, tome ii. pp. 32, 33; Dall. vol. ii. p. 297; "Animo consulem esse oportet, consilio, fide, gravitate, vigilantiâ, curâ toto denique munere consulatûs omni officio tuendo, maximèque id quod vis nominis praescribit reipublicæ consulendo." *Ciceronis Oratio in Pisonem.*

CHAPTER II.

EXTERRITORIAL AND OTHER PRIVILEGES OF CONSULS.[1]

When diplomatic duties may be discharged by consular officers.

33. THE United States may, with consent of the government of another country, superadd to the regular duties therein of consul, any of those of a minister. There are two great classes of such cases, which might well be systematized; or the principle might be more explicitly recognized, in consular stipulations with foreign governments.

Consular privileges in colonial or other dependencies of foreign States.

34. One is that of the transmarine possessions of sundry of the States of Europe. Here many cogent reasons urge that the concession should be granted to our consuls, by such States, of the right to address the colonial or provincial governor. There is nothing in the law of nations to prevent this; it is convenient for all parties; it is a consular right exercised by treaty in the great pashalics of the Turkish empire. The United States have recently made provision to the same effect in treaty with a Christian power, namely, the Netherlands;[2] and that government having thus wisely relinquished its long subsisting scruples on this point, we may reasonably expect similar liberality in future commercial negotiations with other countries of Europe.

35. The other class of cases of this nature is that

[1] The remarks contained in this chapter are mostly extracted from an opinion of a late Attorney General, dated July 14, 1855, Opinions of the Attorneys General, vol. vii. pp. 342–349.

[2] Statutes at Large, vol. x. p. 1150.

of a consul residing near a metropolitan government where there is no minister, either because of temporary cessation, or because inducements have not existed for the interchange of diplomatic representatives between such government and the United States. In this case it becomes the office, perhaps it may be said the right, of the consul to place himself, *with the permission of his own government*, in direct communication with the political authority of such government. Here, as in the other case, the fact occurs, and is of common convenience; it is not inconsistent with public law; and so far as regards the United States, it has example in treaties,—for instance, in our last consular convention with France.[1] It is a thing of manifest necessity as between the United States and some of the countries of Germany, with which our relations are entirely amicable, without calling for permanent diplomatic representation. The German Bund, though in some features resembling our own federal republic, yet differs essentially in this, that, in the former, the federal authority, in matters of peace and war, acts on States, not individuals, and of course each State retains the power of foreign representation and negotiation. Hence, if we do not see cause to interchange ministers, we may yet well reciprocally enlarge the consular functions, in our relations with such States as Bavaria, Saxony, Würtemberg, Hanover, the Hessen, the Mecklenbürgs, or any other of the members of the Bund.

Consular duties where there is no diplomatic representatives of the United States.

Consular duties in Germany.

36. Meanwhile, it would not in either of these classes of cases follow, because a consul of the United States in Bavaria, or one of Bavaria in the United States, may be admitted to address the government,

Derivation of exterritorial privileges by consuls.

[1] Statutes at Large, vol. x. pp. 992, 1000.

that therefore he becomes a diplomatic personage, with international rights as such, and among them that of exterritoriality; nor does it follow that a consul is thereby entitled to the compensation of a diplomatic officer. If his commission be that of consul only, if his public recognition be an *exequatur*, the foreign consul is subject to the local law in the United States; and our own consul in the foreign country, if invested in any case with quasi-exterritorial rights, does not derive these from the law of nations, but only from the special concession, by general law or otherwise, of the particular foreign government. If, indeed, the United States see fit, in any case, to confer the function of chargé d'affaires on their consul, either with or without limitation of time, as they may lawfully do—that is, to superimpose the office of minister on that of consul—then he has a double political capacity, and, though invested with full diplomatic privilege, yet becomes so invested as chargé d'affaires, not as consul; and the fact of such casual duplication of function does not change the legal *status* of consuls, whether they be regarded through the eye of the law of nations, or that of the United States.

Exterritorial privileges of consuls in Pagan and Mohammedan countries.

37. It has been observed, that "in Egypt, Tunis, Tripoli, China, the islands of the Pacific, the consuls enjoy all the diplomatic privileges. The motive is not only in the difference of law and religion with ours, but also in the absence of other diplomatic representatives."[1] This remark requires qualification. In the case of China and Turkey, for instance, our consuls have not, as consuls, any "*diplomatic* privileges," except such as they might have in France

[1] Despatches of United States consul at Frankfort-on-the-Main, December 23, 1854, and January 3, 1855.

during the absence of a minister; such *exterritorial*, not diplomatic, privileges, as they really enjoy, they enjoy, not because they are consuls, nor because of the absence of proper diplomatic representatives in those countries, for we have them, but because they are citizens of the United States. And the true explanation of the diplomatic rights appertaining to consuls in the Mohammedan States, whether independent ones, like Morocco and Muscat, or subject to the suzerainty of the Porte, like Tripoli, Tunis, and Egypt—and so of the Pacific or Indian islands—is, that they are not Christian, and are not admitted to a full community of international law, public or private, with us, the nations of Christendom.[1]

Institution of the consular office.

38. It might be demonstrated historically, what in this place it will suffice to affirm, that the institution of consuls, in their present capacity of international agents, originated in the mere fact of differences in law and religion at that period of modern Europe in which it was customary for distinct nationalities, coexisting under the same general political head, and even in the same city, to maintain each a distinct municipal government.[2]

Consuls in the Levant.

39. Such municipal colonies, organized by the Latin Christians, and especially by those of the Italian republics in the Levant, were administered each by its *consuls*, that is, its proper municipal magistrates of the well-known municipal denomination of ancient Italy. Their commercial relation to the business of their countrymen was a mere incident of their general municipal authority. Such, also, at the outset, was the nature of their political relation to other

[1] See section 238, et seq. infra.

[2] Tuson's British Consul's Manual, pp. 1, 4, 122, 124.

coexisting nationalities around them in the same country, and to that country's own supreme political or military power.

Consular functions in countries not Christian.

40. The consuls of Christian States, in the countries not Christian, still retain unimpaired, and habitually exercise, their primitive functions of municipal magistrates for their countrymen; their commercial or international capacity in those countries being but a part of their general capacity as the delegated administrative and judicial agents of their nations.

Origin of the law of nations.

41. This condition of things came to be permanent in the Levant, that is, Greek Europe and its dependencies, by reason of the tide of Arabic and Tartar conquest having overflowed so large a part of the Eastern empire, and established the Mohammedan religion there. But the result was different in Latin Europe, because the modern nations, formed in this quarter out of the broken fragments of the Western empire, being Christian, and thus deriving their religion and their civilization from the same fountainhead of Rome, settled into something of approximation to one great political community, under the influences, potential when combined, of the military power of the Frankish or Germanic Emperors, and the moral power of the Papal See. Thus it was that the mass of legal ideas, which we now call the law of nations, came to exist and have authority. It is, in its origin at least, the system of public law of Latin or Western Europe.

Establishment of an approximate unity of public law.

42. This imperfect political unity of Western Europe was obstructed at first by the antagonism of the Celto-Romanic and the Germanic races, and was threatened with complete dissolution when that original antagonism reappeared in the separation of some

of the Germanic populations from the Papal See, under the popularly assumed religious title of Protestants. But after thirty continuous years of reciprocal devastation and slaughter, the States of the old and new faith concluded a truce at least, if not a peace, and agreed, while acquiescing in the fact of religious difference, to maintain approximate unity of public law, and thus, by subordinating the religious idea to the legal one, to live together in some sort, as they have continued to do, with only occasional spasms of fanatical intolerance breaking out into civil or foreign war. At a late period, Russia, though of Greek faith, came into the European system of public law, with the less difficulty, indeed, for the reason that Latin Europe and Greek Europe alike nourished the legal traditions of the Roman empire, though these be derived in the former case from Rome, and in the latter from Constantinople.

Change in the nature of the consular office among Christian nations.

43. Thus, by the combination of Romanic law and Christian faith it is that we have come to have a common public law, under whose gradual operation claims of private exterritoriality soon fell into desuetude among the governments of Christendom; Italians in England, and Englishmen in Italy, at length submitted to the local law; foreign colonial nationalities finally ceased to exist of right; their consuls proceeded to sink from the condition of municipal functionaries into that of mere commercial or semi-diplomatic ones; and thus, in process of time, by traditional usage, by positive provisions of local law, and by treaty stipulations, the existing legal character, with its limited rights, was fixed on the foreign consuls mutually accredited in the countries of Christian Europe and America.

44. In our relations with nations out of the pale

Exterritorial rights retained in Mohammedan States.

Religion an element of public law.

of Christendom, we retain for our own citizens and consuls, though we cannot concede to theirs, the rights of exterritoriality. Religion is the chief representative sign, and it is an element of the question of public law. But the critical fact is the difference of law. The legislation of Mohammed, for instance, is inseparable from his religion. We cannot submit to one without also undergoing the other. The same legal incompatibility exists, for one reason or another, between us and the unchristian States not Mohammedan.

Institutes and Pandects.

45. Whereas Christendom, on the other hand, in all its subdivisions of race, nationality, and religion, is the common heir of the political ideas, and especially the legislation, of the Roman empire; for the Institutes and Pandects themselves, though comprising the sum of the legal science of Rome, were compiled and promulgated at Constantinople, and constitute the broad foundation of the jurisprudence, public and private, of the whole of Christendom.

Unity in Christendom.

46. When the countries now Mohammedan shall be resubjected to the doctrines of the Roman law, then can they be admitted to the same reciprocal community of private rights with us, which prevails in Christian Europe and America. Until that event happens, Turkey, and other Moslem States in Africa or Asia, may, like China or Japan, enter into the sphere of our public law in the relation of government to government, but not in the relation of government to men. That full interchange of international rights is admissible only among the nations which have unity of legal thought, in being governed by, or constituted out of, the once dissevered, but since then partially reunited, constituents of the Græco-Roman empire.

CHAPTER III.

JUDICIAL AUTHORITY OF THE COMMISSIONER OR MINISTER AND CONSULS OF THE UNITED STATES IN CHINA, TURKEY, AND JAPAN.[1]

Act of August 11, 1848.

47. THE jurisdiction of the commissioner or minister and consuls of the United States in China, so far as regards the forms and the manner of its exercise, is regulated by the act of August eleven, 1848, which was substantially re-enacted on the twenty-second of June, 1860, with such additional provisions as to make it comprehend other countries with which the United States have treaties similar to that with China. These acts purport to have for their object to carry into effect certain provisions, in this relation, contained in the respective treaties between the United States and China, and the United States, the Ottoman Porte, and other countries.[2]

Mode of interpreting it.

48. The former act, consisting of twenty-four sections, is, of course, to be considered as a whole; and anything obscure in one part of it is to be elucidated by reference to other parts.

[1] This chapter embraces substantially an opinion of a late Attorney General of the United States, Opinions of the Attorneys General, vol. vii. pp. 492–522, which was requested by the Department of State, in reference to the judicial authority of the ministers, and of consuls of the United States in China and Turkey, to whose special attention it is referred for their study and guidance. Since the opinion was given in 1855, the act of June 22, 1860, has been passed, by which many of the provisions of this act have been made applicable to the relations of the United States and its citizens with Japan, Siam, Persia, and other countries.

[2] Statutes at Large, vol. ix. p. 276.

Its connection with treaties.

49. It is, avowedly, based on the two treaties in question, and especially that with China, and is to be construed in subordination to that and to the constitution. In substance, it accepts and gives actual form to those stipulations of treaty, which confer on all citizens of the United States the rights of exterritoriality in China and Turkey.

50. The legal rationale of the treaty stipulations as to China, with which we are now chiefly concerned, and their relation to the legislative authority of the United States, are explained in the following despatch of the minister who negotiated the treaty:

Extract from Mr. Cushing's despatch in explanation of the treaty.

"I entered China with the formed *general* conviction that the United States ought not to concede to any foreign State, under any circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless that foreign State be of our own family of nations,—in a word, a Christian State.

International law of Christendom.

"The States of Christendom are bound together by treaties, which confer mutual rights and prescribe reciprocal obligations. They acknowledge the authority of certain maxims and usages, received among them by common consent, and called the law of nations; but which, not being fully acknowledged and observed by the Mohammedan or Pagan States, which occupy the greater part of the globe, is, *in fact*, only the international law of Christendom. Above all, the States of Christendom have a common origin, a common religion, a common intellectuality; associated by which common ties, each permits to the subjects of the other, in time of peace, ample means of access to its dominions for the purpose of trade, full right to reside therein, to transmit letters by its mails, to travel in its interior at pleasure, using the highways, canals, stage-coaches, steamboats, and railroads of the country as freely as the native inhabitants. And they hold a regular and systematic intercourse as governments, by means of diplomatic agents of each, residing in the courts of the others, respectively. All these facts impart to the States of Christendom many of the qualities of one confederated republic.

"How different is the condition of things out of the limits of Christendom! From the greater part of Asia and Africa, individual Christians are utterly excluded, either by the sanguinary barbarism of the inhabitants, or by their frenzied bigotry, or by the narrow-minded policy of their governments. To their courts, the ministers of Christian governments have no means of access except by force, and at the head of fleets and armies. As between them and us, there is no community of ideas, no common law of nations, no interchange of good offices; and it is only during the present generation that treaties, most of them imposed by force of arms or by terror, have begun to bring down the great Mohammedan and Pagan governments into a state of inchoate peaceful association with Christendom.

Intercourse with Pagan and Mohammedan nations.

"To none of the governments of this character, as it seems to me, was it safe to commit the lives and liberties of citizens of the United States.

"In our treaties with the Barbary States, with Turkey, and with Muscat, I had the precedent of the assertion, on our part, of more or less of exclusion of the local jurisdiction, in conformity with the usage, as it is expressed in one of them, observed in regard to the subjects of other Christian States.

Treaties with the Barbary States.

"Mr. Urquhart thinks these concessions have not been wise on the part of the Mohammedan States. It may be so for them; but it will be time enough for them to obtain jurisdiction over Christian foreigners, when these last can visit Mecca, Damascus, or Fez, as safely and freely as they do Rome and Paris, and when submission to the local jurisdiction becomes reciprocal.

"Owing to the close association of the nations of Christendom, and the right their people mutually enjoy and exercise, of free entry into each other's country, there is reciprocity in the recognition of the local jurisdiction. Not so in the case of the great Moslem or Pagan States of Asia and Africa, whose subjects do not generally frequent Europe and America, either for trade, instruction, or friendship.

"In China, I found that Great Britain had stipulated for the absolute exemption of her subjects from the jurisdiction

Treaty with China.

of the empire; while the Portuguese attained the same object through their own local jurisdiction at Macao. * * *

"I deemed it, therefore, my duty, for all the reasons assigned, to assert a similar exemption on behalf of citizens of the United States. This exemption is agreed to in terms by the letter of the treaty of Wang-Hiya. And it was fully admitted by the Chinese, in the correspondence, which occurred contemporaneously with the negotiation of the treaty, on the occasion of the death of Sha Aman.

"By that treaty, thus construed, the laws of the Union follow its citizens, and its banner protects them, even within the domain of the Chinese empire.

"The treaties of the United States with the Barbary powers, and with Muscat, confer judicial functions on our consuls in those countries, and the treaty with Turkey places the same authority in the hands of the minister or consul, as the substitute for the local jurisdiction, which, in each case of controversy, would control it if it arose in Europe or America. These treaties are in this respect accordant with general usage, and with what I conceive to be the principles of the law of nations in relation to the non-Christian powers.

"In extending these principles to our intercourse with China, seeing that I had obtained the concession of absolute and unqualified exterritoriality, I considered it well to use in the treaty terms of such generality, in describing the substitute jurisdiction, as, while they hold unimpaired the customary or law of nations jurisdiction, do also leave to Congress the full and complete direction to define, if it please to do so, what officers, with what powers, and in what form of law, shall be the instruments for the protection and regulation of the citizens of the United States.

"And it only remains, in case the treaty shall be ratified, to adopt such legislative provisions as the wisdom of the President and of Congress may desire or approve, to give effect to the concessions which the Chinese government has made in this matter, and which seems to me so important in principle, and so material to the honor and interests of the United States."[1]

[1] Mr. Cushing to Mr. Calhoun, Sept. 29, 1844; MS., Department of State.

51. This anticipated dependence of the act on the treaty is plainly expressed by it, in so far as regards the *civil* jurisdiction of the commissioner and consuls, when it says: "Which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by said treaty."[1] And in the text of the act, as well as its title, it purports "to carry into effect" or into "full effect" the provisions of the treaty.

Dependence of the act on the treaty.

52. The *criminal* jurisdiction conferred by the act is general in terms, without, however, as will be seen hereafter, overstepping the treaty. Whether the civil jurisdiction is *broader* than that of the treaty, is to be decided by its enactments. It is not perceived that there is any provision of the act, in this respect, which goes beyond the treaty. Any provision, to have such effect, must be affirmative and reasonably explicit; because the tribunals, constituted by the act as well as the treaty, are special ones, having limited jurisdiction, namely, that which is conferred by treaty or statute; and nothing appears, in the course of the act, capable of imparting jurisdiction beyond the persons and predicaments provided for by the treaty stipulations.

Civil and criminal jurisdiction.

53. In ascertaining the intent of the statute, care must be taken at no time to lose sight of the provisions of the treaty, at least in the questions of jurisdiction.

54. The treaty and statute must be examined, to discover who are the persons that are to exercise this jurisdiction, the forms of its exercise, the laws it is to administer, and the persons and the conditions of its application.

Officials.

[1] Statutes at Large, vol. ix. p. 276, sec. 3.

"For the superintendence and regulation of the concerns of the citizens of the United States doing business at the said five ports," (of China), says the treaty, "the government of the United States may appoint consuls, or other officers, at the same, who shall be duly recognized as such by the officers of the Chinese government."[1]

55. After which it proceeds:

Adjustment of disputed questions and controversies.

"All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction, and regulated by *the authorities*, of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China."[2]

"And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction."[3]

Crimes.

56. Finally, in regard to crimes, it is agreed that—"Citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the consul, or other public functionary of the United States thereto authorized, according to the laws of the United States."[4]

Exterritoriality.

57. On attentive consideration of the provisions, it will be seen that they confer on citizens of the United States in China unqualified and absolute exterritoriality in all *criminal* matters; and that the sole jurisdiction of the United States over its citizens in China is plainly perfect in terms, except in the following cases:

[1] Statutes at Large, vol. viii. p. 593.
[2] Ibid. p. 597.
[3] Ibid. p. 597.
[4] Ibid. p. 596.

1. Where, in a matter of civil right, it involves controversy between a Chinese and an American, then the authorities of the two governments are to have *concerted* action. Concerted action.

2. Where it involves controversy between an American and some other person than Chinese, as English or French, for example, then its adjustment is to be regulated by the international relations of the United States and of Great Britain or France. International relations.

3. Whether any of the provisions quoted apply to a case of civil right in which some *government* is a party, on the one side, and a citizen of the United States, on the other, is a question to be considered more particularly hereafter. When a government is a party.

58. In our treaty with the Ottoman Porte, the stipulations of exterritoriality are less explicit. In *terms*, it seems to be imperfect; but, interjecting into each stipulation its true construction, it will be seen that, so far as they go, they accomplish the object, as follows: Treaty with the Porte.

"If litigations and disputes arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced, unless the American dragoman be present. Causes (between subjects of the Porte and citizens of the United States) in which the sum (in controversy) may exceed five hundred piastres, shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, (or other affairs in the Turkish empire, including the countries subject to its suzerainty,) and not being charged or convicted of any crime or offence, shall not be molested, (either by acts of violence, or by any claim or pretence of local jurisdiction;) and even when they may have committed some offence, they shall not be arrested or put in prison by the local authorities,

but they shall be tried by their minister or consul, and punished according to their offence, following, in this respect, the usage observed toward other Franks, (that is, tried and punished by the authorities and the laws of the United States.")[1]

Minister or consul defined.

59. In order to execute these treaties,—to carry the laws of the United States into Turkey and China,—to have our territorial jurisdiction follow our people and our flag into those empires,—persons clothed with lawful authority are the necessary instruments. In the treaty with Turkey they are spoken of as the "minister or consul" of the United States; in that with China, as "consuls or other officers," "public officers," the "consul or other public functionary," and "the authorities," of the United States. Then comes in the statute which provides for the exercise of judicial power over the citizens of the United States in the cases which it defines, by "the commissioner and consuls of the United States duly appointed to reside in China,"[2] and by "the minister of the United States and the consuls appointed by the United States to reside" in Turkey:[3] it being provided that the term "commissioner," like that of "minister," is intended for "the person vested with the powers of chief diplomatic functionary of the United States," and the term "consul," for "any person vested by the United States with, and exercising, the consular authority," in Turkey or China.

Mode of exercising judicial powers.

60. It is observable that the statute provides in terms for the exercise of judicial powers by the ministers and consuls in Turkey only "so far as regards the punishment of crime."[4] It leaves all questions of

[1] Statutes at Large, vol. viii. p. 409.
[2] Ibid. vol. ix. p. 276.
[3] Ibid. p. 279.
[4] Ibid. p. 279.

civil jurisdiction to the vagueness of the general analogies of public law as applied to Franks in the Levant. The instructions which follow, therefore, are only in part applicable to Turkey, and will be stated mainly as affecting China.[1]

61. In thus retaining jurisdiction of American citizens in China, and providing persons to exercise it, reliance could not be had upon the law of nations exclusively, nor upon usages, or a customary local code applicable to the emergency, such as exists in the Levant. Accordingly, the statute contains the following important provision:

"That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent that the terms of the treaty justify or require,) so far as such laws are suitable to carry said treaty into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the commissioner shall, by decrees and regulations, which shall have the force of law, supply such defects and deficiencies."[2]

System of law.

62. The system of law is composed, therefore, of—

1. The laws of the United States, comprehending the constitution, treaties, acts of Congress, equity and admiralty law, and the law of nations, public

[1] Opinions of the Attorneys General, vol. v. p. 67.
[2] Statutes at Large, vol. ix. p. 276.

and private, as administered by the Supreme Court, and circuit and district courts of the United States, and, in certain cases, regulations of the Executive Departments.

2. "The common law." In this respect, the statute furnishes a code of laws for the great mass of civil or municipal duties, rights, and relations of men, such as, within the United States, are of the resort of the courts of the several States.

Reason for the adoption of the common law.

63. Some general code in these respects became necessary, because the law of the United States—that is, the federal legislation—does not include these matters, and, of itself, would be of no avail toward determining any of the questions of property, succession, contract, which constitute the staple matter of ordinary life.

Common law of the States.

64. For such of the States as were founded in whole or chief part by colonists from Great Britain and Ireland, or their descendants, the law of England, as it existed in each of those States at the time of their separation from Great Britain, with such modifications as that law had undergone by the operation of colonial adjudication, legislation, or usage, became the common law of such independent State.

Modifications of the common law.

65. Meantime, in addition to many changes, differing among themselves, which the common law underwent in each of the colonies before it became a State, that common law has been yet more largely changed by the legislation and judicial construction of each of the States. Hence, it was not enough to enact that the common law should intervene to supply, in China, deficiencies in the law of the United States. For the question would be sure to arise: What common law? The common law of England

at the time when the British colonies were transmuted into independent republican States? Or the common law of Massachusetts? Or that of New York, or Pennsylvania, or Virginia? For all these are distinct, and in many important respects diverse, "common law."

66. To dispose of this difficulty, the statute went one step further, and enacted that—

Decrees and regulations.

3. "Decrees and regulations" may be made from time to time by the commissioner, which shall have the force of law, and supply any defects or deficiencies in the common law and the laws of the United States. This power of supplementary decree or regulation serves to provide for many cases of criminality, which neither federal statutes nor the common law would cover.

Forms and execution of process.

67. In addition to which, it is enacted that the commissioner, with advice of the several consuls, shall prescribe the forms of processes to be issued, the mode of executing the same, the form of oaths, the costs and fees to be allowed and paid, and, generally, to make all such decrees, regulations, and orders, under the act, as the exigency may demand, which shall be "binding and obligatory until annulled or modified by Congress."[1]

Decrees, etc., to be laid before Congress.

68. In certain respects, therefore, the commissioner *legislates* for citizens of the United States in China; it being required, meanwhile, that such "regulations, orders, and decrees," as he may make in the premises, shall be transmitted "to the President, to be laid before Congress for its revision."[2]

Administration of law.

69. The statute then proceeds to describe in detail the manner in which the commissioner and the con-

[1] Statutes at Large, vol. ix. p. 276. [2] Ibid. p. 277.

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ıes, not exceeding four, to sit with him in the trial. ·h of such assessors shall enter and sign of record opinion in the case, which, however, shall be de- ed still by the consul. If he and his assessors ıcur in opinion, the decision is final; but if they fer, the case, with the record and all the evidence, ıll be referred to the commissioner, who may either termine it, or, if he choose, remit the case with in- ructions to the consul for further proceedings.[1]

74. In capital cases, which, as enumerated by the ɔt, are "murder, insurrection, or rebellion against the hinese government with intent to subvert the same," he provision is, that the consul must always proceed vith four assessors; he and they must all concur in ɔpinion to produce conviction, and the conviction is invalid unless approved by the commissioner; who, if he approve it, is either to issue a warrant of execution, or postpone the same, or, in his discretion, submit the case to the President of the United States for pardon.[2] Capital cases.

75. In regard to civil matters, the provision is, that in "all civil cases under said treaty," the consuls have jurisdiction, each within his consular circumscription, to try of himself, and decide finally, any controversy where the damage demanded does not exceed five hundred dollars. If it exceed five hundred dollars, then of necessity, and in other cases if the consul see fit, he is to summon to his aid not less than two, nor more than three, citizens of the United States as assessors, who shall with him hear the case. If the associates concur in opinion with the consul, his decision is final; but if they differ with him, their opinions are to be noted on the record, and either party may appeal from his decision to the commissioner.[3] Civil cases.

[1] Statutes at Large, vol. ix. p. 277. [2] Ibid. p. 278. [3] Ibid. p. 279.

Cases of appeal to the commissioner.

76. The commissioner is fully authorized to hear and decide all cases which lawfully reach him under the provisions of the act, and "to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he is empowered to prescribe rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds."[1]

Appellate jurisdiction.

77. Although it is nowhere said by the statute, in so many words, that the judicial authority of the commissioner in the trial of the above described cases, civil or criminal, is appellate only, yet such appears to be its true legal intendment. No original jurisdiction in these two classes of cases is given to him in express terms by the statute. It is all conferred in express terms on the consuls. In capital cases, it is plainly enacted that the consul and his assistants convict, and the "commissioner approves the conviction," the previous conviction being essential, and approval or disapproval being in the nature of things a separate act. In all other criminal cases, and in all the civil cases mentioned, the matter comes to the commissioner by appeal, or by certificate of difference of opinion between the consul and his assessors; and the commissioner decides upon the evidence "which comes up," that is, from the consul, or upon further hearing of the parties, as he shall determine. All these are the incidents and the *indicia* of appellate, as distinguished from original, jurisdiction. Moreover, it seems fitting, and in the analogy of other judicial proceedings, that, in ordinary matters, an appellate authority should exist; which would not be the case here, if the com-

Authority of the commissioner.

Original and appellate jurisdiction.

[1] Statutes at Large, vol. ix. p. 278.

missioner had, in all things, original jurisdiction, concurrent with that of the consuls; and this anomaly would be the greater in the matter, in consideration that the statute gives no assessors to the commissioner.

Theory of the statute.

78. It is doubtless the theory of the statute, and a good one, to give to the commissioner, in ordinary judicial matters, at common law, only a regulative, appellate, and superintending authority, devolving the original jurisdiction in such cases upon the resident consuls; that condition of things being altogether in harmony with their diplomatic relation to one another and to the government.[1] No apparent inconvenience attaches to this conclusion, except in the contingency of the temporary vacancy of a consulate. In such case, the commissioner has authority to appoint an acting consul.[2]

Cases other than civil and criminal.

79. But the criminal and civil cases, which have thus far been the subject of consideration, do by no means cover the field of judicial authority at common law, still less that of such authority under the laws of the United States, still less of that which may be comprehended by regulations adopted by the commissioner, or by the commissioner and the consuls, and having "the force of law," to supply any defects or deficiencies in the common law and the laws of the United States. It is manifest that the terms of description, contained in the statute, embrace all possible jurisprudence, which does or may exist, compatibly with the organic principles of constitutional law, which govern, and at the same time guard the rights

[1] Mr. Marshall to Mr. Marcy, Dec. 8, 1853, Ex. Doc. 33d Cong., 1st sess., No. 123, p. 334.

[2] Ibid. p. 372.

and the duties of citizens of the United States. Leaving out of consideration all criminal matters, that is, treating them as fully disposed of, it becomes material to inquire how matters, not criminal, and not included in the appealable civil cases, are to be dealt with as between the commissioner and the consuls.

Statute provisions.

80. The statute provision as to the trial of civil "cases" is, that "the consuls aforesaid, and each of them at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under said treaty, wherein *the damage demanded* does not exceed five hundred dollars," in which cases the consular decision may be final; "but if in his judgment any case involves legal perplexities, and assistance will be useful, or if *the damage demanded* exceeds five hundred dollars," then he must have assessors, and his decision is subject, in case of difference of opinion, to an appeal to the commissioner.[1]

Miscellaneous processes and cases.

81. Now, there are processes which do not involve any question of "damages" whatever, but which are nevertheless of primary importance and utility: such as the writ of *habeas corpus*.

82. Other cases of controversy at law exist, which concern property, but in which no question of mere damage is involved, unless incidentally, such as many suits *in rem*, and many others *de re*.

83. There is another class of cases of property, in which no damages are demanded, but equitable relief only, such as most matters in chancery.

84. There is another class of processes, which have for their object to enforce or to protect rights in cases already *sub judice* or otherwise; such as writs of mandamus, supersedeas, and prohibition.

[1] Statutes at Large, vol. ix. p. 278.

85. Finally, there is a vast body of justiciable rights, to which the phrase of "damages demanded" can by no possibility apply, being questions of personal right, of the domestic relations, of inheritance, or of testamentary disposition. This includes cases of copartnership, or other joint interest, in real or personal estate, of insolvency, of divorce, of alimony, of wills, and of intestate successions.

Distribution of duties and limitation of general powers.

86. As to the distribution of all these matters between the commissioner and the consuls, the statute is absolutely silent; and that distribution is to be made by regulation, in subordination always to other specific rules of law. Therefore it is, that, in several provisions of the statute, jurisdiction is conferred in general terms on both the commissioner and the consuls;[1] and that a general power to issue all needful processes, as well as to make regulation of all processes, is conferred on the commissioner.[2] These general powers, as has been seen, are defined and limited as to *certain* "civil cases" in other parts of the statute, which limitation depends on the nature of the case, as indicated by the question of "damages."

Local jurisdiction, and conditions thereof.

87. The same general powers are also limited more or less in the sense of locality; for it is enacted that "the said functionaries," that is, the commissioner and the consuls, being "(in) vested with all the judicial authority necessary to execute the provisions" of the treaty, "shall entertain jurisdiction in matters of *contract* at the port where or nearest to which the contract was made, or at which or nearest to which it was to be executed; and in all other matters, at the port where or nearest to which the cause of controversy

[1] Statutes at Large, vol. ix. p. 276.

[2] Ibid. pp. 276, 278, sections 5 and 13.

arose, or at the port where or nearest to which the damage complained of was sustained,—any such port above named being always one of the five mentioned in the treaty."[1] These conditions of locality are to be applied, so far as may be in their nature applicable, to all cases. To many cases of contract and damage sustained, the condition of one of the five ports is inapplicable by its very nature. Thus it may be the case of a contract made and to be executed, or of damage sustained, in Europe or in America, the parties being *now* in China.

88. And the condition does not apply in terms to anything but matters of "contract" or of "damage sustained." Nor does the other form of the condition—"the port where or nearest to which the cause of controversy arose"—satisfy all the *desiderata* of the subject. There may be no "controversy" or "cause of controversy" in the matter, though it requires judicial determination, as the probate of a will, which is at once the source and the authentication of title. And in many matters of "controversy," it may be difficult, if not impossible, to show where the "*cause* of controversy" arose. But the statute does not undertake or profess to provide specially for all questions, leaving many to the regulations of the commissioner. Where the question of place of judgment is determined by the statute, of course that controls the commissioner as well as the consuls. In all other cases, the rules and analogies of law on this subject of jurisdiction, having reference to the *situs* of the thing, or the residence or commorancy of parties, afford a sufficient guide to the regulative discretion of the commissioner.

[1] Statutes at Large, vol. ix. p. 276.

89. Whatever is determined as to the *person* who shall exercise jurisdiction, must of course be conciliated with what shall be determined as to the *place* of jurisdiction. Independently of this, the commissioner and the consuls should make provision, in the manner indicated by the statute, that is, by separate or by joint regulations,[1] concerning all those things the jurisdiction of which it leaves indeterminate, and, therefore, subject to regulation.

Place of jurisdiction and persons exercising it.

90. Matters of insolvency, intestacy, probate of will, divorce, division, or regulation of copartnership or other common interests, habeas corpus, specific performance, trust, discovery, seamen's wages, charter-party, bottomry, and other matters of equity, admiralty, or ecclesiastical law, are, for the most part, of local nature, and requiring prompt interlocutory action of judicial authority; and, therefore, seem to be fit subjects for the original jurisdiction of the consuls, with proper regulations for appeal to the commissioner.

Cases of original jurisdiction.

91. On the other hand, some processes, like mandamus, prohibition, supersedeas, are of so high a nature, that, like review, they seem appropriate to the jurisdiction of the commissioner. The same observation may, perhaps, apply to some processes in equity.

Processes appropriate to the jurisdiction of the commissioner.

92. Even as to all these matters, which the statute leaves undetermined, the safer course will be to adhere, so far as possible, to the spirit of the law, which makes the commissioner the appellate supervisor of the judicial acts of the consuls.

Adherence to the spirit of the law.

93. Inquiry has arisen as to whether a vice consul has power to act judicially in China. It has been

Appointment of vice consuls.

[1] Statutes at Large, vol. ix. p. 276.

supposed that this is a question of the delegation of judicial power by a consular judge. It rather seems to be the question of how a vice consul may be lawfully appointed.

Official titles defined.

94. The statute expressly says that "the word *commissioner*, when used in this act, shall be understood to mean the person (in)vested with and exercising the principal diplomatic functions in China, and the word *minister* as meaning the person (in) vested with the powers of chief diplomatic functionary of the United States in Turkey. The word *consul* shall be understood to mean any person (in)vested by the United States with and exercising the consular authority in any of the five ports of China named in the treaty, or any port in Turkey."[1] The act then proceeds to say that "all such officers shall be responsible to the United States and to the laws thereof, not as diplomatic functionaries and commercial functionaries, but as judicial officers, *when they perform judicial duties*."[2]

Judicial powers of certain officers.

95. Now, it has never been doubted that the secretary of legation in China, or any other acting chargé d'affaires, could officiate as judge in virtue of treaty and statute. And as to consuls, the statute has no possible significancy, unless it be that vice consuls may so act, when *duly appointed* by the United States. In truth, the statute, with great propriety, employs the word *consul* as the *nomen generalissimum* for any person lawfully invested with consular authority. If, therefore, the vice consul have this power, it will not be authority delegated in the sense of the objection, that is, the case of a judicial consul delegating his

[1] Statutes at Large, vol. ix. p. 279. [2] Ibid. p. 280.

judicial authority; but, on the contrary, it is the case of power conferred by the statute.

Vice consul; by whom appointed.

96. Moreover, the objection assumes that the vice consul is appointed by the consul. That is an error. The vice consul is in law appointed by the Secretary of State or the President, just as inspectors of customs are *in law* appointed by the Secretary of the Treasury (or the President.) To be sure, the consul in practice frequently nominates a vice consul to the Secretary of State, as the collector of customs nominates an inspector to the Secretary of Treasury.[1] Whether nominated in the first instance by the commissioner or by the consul, the vice consul, when approved by the Secretary of State, is to be deemed a "person (in) vested by the United States with and exercising the consular authority."

Doctrine of exterritoriality in certain cases.

97. Suggestion is made of some other matters of doubt in the judicial power of the commissioner and the consuls, which makes it necessary to go back to the treaty, and compare certain of its provisions with those of the statute. These doubtful matters are the three cases specified hereafter, in which question might arise whether the exterritoriality of Americans in China is perfect. It is, in truth, however, in each of those cases, a question, not whether they enjoy exterritoriality there so far as that is a privilege or a right, but whether it also attaches to them as an obligation. The laws of their own country accompany them to China, in so far as regards any criminal act whatsoever which they may commit, or be charged with committing therein. The same laws accompany them, in so far as regards any rights they may

[1] Opinions of the Attorneys General, vol. v. pp. 162–165; United States v. Bachelder, 2 Gallison, p. 15; United States v. Wood, ibid. p. 361.

possess relatively to any other Americans; and so also in regard to any obligations to which they may be subject relatively to any other Americans. But it may be asked, how is it in China with regard to the civil rights and duties of Americans relatively to persons who are not Americans? As among the nations of Christendom, on their own soil, we know that alien friends may sue and be sued in the courts of any country. An American in France may recover his debt of a Frenchman; a Spaniard in the United States may recover his debt of an American. Is the same thing true, as between persons of either of those nations in China? Is it true there, as between a Chinese and an American? To begin with the latter case: The treaty stipulates that "if controversies arise (in China) between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided, conformably to justice and equity, by the public officers of the two nations acting in conjunction."[1] The controversy shall be settled, that the treaty engages: it shall be settled conformably to justice and equity, and it shall be settled by some conjoint action of the proper officers of the respective nations. But how? The answer is obvious. But before proceeding to give it, however, it may be well to anticipate objection to what might, at first, appear to be an anomaly in jurisprudence, namely, the administration of law among distinct nationalities in the same place or territory, as applied to the state of things in China.

Distinct codes of law in coexisting nationalities.

98. In the middle age, the fact was common, as between the coexisting nationalities, to give to dis-

[1] Statutes at Large, vol. viii. p. 597.

tinct codes of law a personal application, according to nations, instead of a merely territorial force.[1]

99. At the present time, we have precisely the same fact before us in British India. Europeans, when they first visited India, found a conqueror and a conquered race living together, with the law of each administered by nationalities.[2] Each successive European conqueror followed more or less the same rule.[3] The doctrine applies not only to civil rights and remedies, but also, in many respects, to crimes.[4] And the system is now sanctioned by the statutes of the imperial government, which enact that a case of controversy between Mohammedans is to be governed by their laws and usages, and a case of controversy between Gentoos by theirs, and where it is controversy between a Mohammedan and a Gentoo, the law of the defendant's nation is to be applied to the case.[5] The acts of Parliament speak of *Gentoos* only in addition to Mohammedans. This word is not a name of nationality, but is English corruption of the Portuguese *gentio*, (gentile.) Hence the practical construction of the expression, in the Anglo-Indian courts, is to consider "Gentoo" as comprehending all nationalities in Hindostan except Christians and Moors; and the national law of each is applied with impartiality alike to Hindus, Sikhs, Parsis, and Jews.[6]

Administration of law in British India.

100. In the British colonies proper, as distinguished from the so-called possessions of the East India Company, the rule of public law is to maintain the muni-

Rule of public law in the colonies.

[1] Cathcart's Savigny, vol. i. ch. 3. [2] Jones's Ins. Hind. Law, art. 203.
[3] Bowyer's Pub. Law, p. 168. [4] Morley, Ind. Cases, int. p. 169.
[5] Act of Parliament of 21 George III. c. 70; and of 37 George III. c. 142.
[6] The Kojahs and Memons' case, Perry's Oriental Cases, pp. 110–124.

cipal institutions of the conquered until they be changed by the conqueror.[1]

Territorial application of law.

101. In the United States the doctrine is the same.[2] But in the British colonies proper, as well as in the States and organized Territories of the United States, the law is *territorial* in its application and force, not personal,—that is, it applies to all persons, of whatever nation, within the ceded or conquered territory.

Illustrations.

102. It will suffice to elucidate this by examples drawn from our own public law. The several treaties of cession, by which foreign territory, with its inhabitants, has been transferred to the United States, are those of Louisiana, of the two Floridas, and of New Mexico and California. The treaty of the United States with France, for the acquisition of Louisiana, stipulates that,

"Art. III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."[3]

103. Stipulations to the same effect appear in the treaty with Spain, which transferred to the United States the Floridas,[4] and that with the Mexican

[1] Burge's Com., vol. i. p. 31; Clark, Colonial Law, p. 4. See Vattel, Droit des Gens, l. iii. ch. 12, s. 201; Calvin's case, 7 Co. R. p. 176; Rex *v.* Vaughan, 7 Bur. p. 2600; Blanchard *v.* Galdy, 2 Salk, p. 411; Brief in U. S. *v.* Ritchie, p. 5.

[2] Strother *v.* Lucas, 13 Peters, p. 436; Mitchell *v.* The United States, 9 Peters, p. 794.

[3] Statutes at Large, vol. viii. p. 202

[4] Ibid. p. 356.

republic, which recognized our conquest of New Mexico and California.[1]

104. In each of these instances, it has been adjudged, as the rule of our public law, and provided by statute, that the laws and usages of the ceded *country*, as they existed at the time of cession, continued to be the law, not only of the previous inhabitants, but of *all others* who should come to reside in it. No distinction of law was maintained in Louisiana, Florida, or California, between the original French or Spanish inhabitants and the immigrant Anglo-Americans. The *civil* law continued to be the law of the country until it was modified by the legislative act of the *people* of the *Territory*,—that is, the new inchoate state of the American Confederation,—that is, its free inhabitants, of whichever nation, acting as a political society. In what is now the State of Louisiana, for instance, the Roman, Spanish, and French laws, modified by statutes, continued to be the system of the State.[2] In the Territory, now State, of Missouri, when the Anglo-Americans had come to predominate in numbers, the common law was substituted for the civil, as the fundamental body of jurisprudence.[3] The same thing was done by the State of California.[4] Thus, in each organized Territory or State of the Union, there is but *one municipal code*, so far as regards all the inhabitants of the Territory or State.

Rule of public law in the United States.

105. Nevertheless, we have, in territory of the United States unorganized, the example of law administered by nationalities in the case of the subject

Law in unorganized territories.

[1] Statutes at Large, vol. ix. p. 929. [2] Louis. Code, art. xxxvi. p. 21.
[3] Acts of 1816 and 1825. See Brief, Ruggles *v.* Comtesse de Tournon, p. 38.
[4] Act of 1850.

Indians, more especially the Choctaws, Chickasaws, and Cherokees.[1]

106. Nay, we have a striking example of the same thing, in substantial effect, in the administration of law as applied to the citizens of the United States.

Municipal law.

107. Every such citizen, save in the District of Columbia, is a citizen of some State, or of a Territory hereafter to become a State. But, in respect of all matters of municipal resort, the several States are in the relation to one another of foreign governments. That is to say, their citizens constitute in many respects distinct and independent nationalties.

State courts.

108. In Pennsylvania, for instance, a citizen of Virginia sues, or, if there, may be sued, either in relation to a citizen of Pennsylvania, or even to another quasi foreigner, such as a citizen of Massachusetts; all, in Pennsylvania, being thus subject to the laws and the tribunals of Pennsylvania. But if the subject-matter be one of federal law, that, and not the law of the State, is to be applied to the case.

Federal courts.

109. Moreover, each citizen of a State has open to him the federal courts in a controversy between himself and a citizen of another State, either by the transfer of his case or by original suit in the courts of the United States. But, in that event, he must go into the federal courts for the State of the *defendant*, and, unless it be a question of federal rights, he must accept as the rule of decision the municipal law of that State.

Application of doctrines of public law to citizens of the United States in China.

110. These doctrines of public law may be applied to citizens of the United States in their relations to persons of other nations in China.

111. First, as to a demand brought by a Chinese

[1] Opinions of the Attorneys General, vol. vii. p. 75.

against an American: The statute provides that the consular court shall have jurisdiction of "all civil cases arising under said treaty." The controversy supposed is a civil case arising under the treaty. When it arises, "the proper officers of the two nations" will agree that the Chinese shall go into the consular court as plaintiff, and that court will take jurisdiction of the defendant as an American. Or they may enter into a general agreement, and the commissioner may provide, by a standing regulation under the statute, that the consular court shall hear and determine all private claims which Chinese may prefer against Americans.

Jurisdiction of consular courts over "others" than American citizens.

112. Confirmatory of this conclusion, as also of what is hereafter to be said of the case of controversy between Americans and foreigners in China, there is in the statute a very significant expression, which assumes that the consular courts are to administer justice in some cases not confined to citizens of the United States. It extends the law, which it prescribes, to citizens of the United States, and to "*all others*, to the extent that the terms of the treaty justify or require." Among those "others" are subjects of China and of any government, who, by voluntarily making themselves parties complainant or demandant before the consular court, appeal, *pro tanto*, to the laws of the United States.

113. Secondly, as to a demand by an American against a Chinese: The former must, of necessity, be content with such judicial or executive action of the Chinese government in the premises as appertains to their institutions, and as, by special application in each case, or by general application, may be required on the part of the public officers of the United States.

Jurisdiction of consular courts in controversies between American citizens and subjects of foreign States.

114. As to the other case, namely, controversies occurring in China between citizens of the United States and subjects of any other (Christian) government, the treaty provides that the same "shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China."

115. Now we have no *special* treaty with any of those governments on this point; nor is any needed, or necessarily required or intended by the stipulation under consideration. With all, we have treaties of amity, or of ordinary commercial and social intercourse; and that suffices to meet the exigency.

116. By the tenor of those treaties, as they are construed by the law and usage of nations, an Englishman has the right to sue a resident American, or an American a resident Englishman, as alien friend, in all places wherever, respectively, the jurisdiction of the other country exists locally, and is complete as to subject-matter, persons, and remedial forms.[1]

117. The jurisdiction of the United States is complete as to their citizens in China; and the jurisdiction of Great Britain is complete as to her subjects in China. That the jurisdiction, in each case, is exterritorial, that in China it is excepted from the local territoriality, and that it is outside of the territoriality of either Great Britain or the United States, are facts wholly immaterial to the question. It is a question free of all doubt on principles of international right, and subject only to the single inquiry, whether the given countries, each proceeding in established legal forms, by whatsoever authority such forms be established, have conferred on their courts of justice

[1] Fœlix, Dr. Intern. privé, tit. xi. ch. 2.

in China jurisdiction *ad hoc*, or whether that remains to be done.

118. Here, again, the statute is explicit and ample. It confers on the consular courts jurisdiction of "all civil cases arising under said treaty." A demand of an Englishman against an American is a civil case arising under the treaty.

119. Therefore, a suit may be brought by the Englishman against the American in the consular court of the United States; as, undoubtedly, in the consular court of Great Britain, it may, consistently with public law, be brought by an American against an Englishman.

120. If the Englishman were within the territorial jurisdiction of the United States, he might sue, but would also be subject to suit, in the local courts, as the American might and would be in England. Nay, a suit would lie in the courts of Great Britain or the United States, between residents, both being aliens in the country.[1]

121. In China, the relative condition of all these persons differs in this, that the local courts of each government, being exterritorial ones, have no territorial jurisdiction, but only a jurisdiction as respects persons, namely, its own citizens or subjects. Of course, neither government can take compulsory jurisdiction there of a subject or citizen of any other; but each may act compulsorily upon its own, at the suit of that of another.

122. Perhaps neither government is under perfect obligation to do this; but it may do so in obedience to national comity; it can rightfully do so if it will; and its obligation to do so will be perfect, provided

[1] Fœlix, ubi supra.

the exercise of the right be reciprocated by the other government.

Jurisdiction of consular courts in controversies between citizens of the United States and foreign governments.

123. One other, and a more difficult, question remains to be explored, namely, whether a foreign government can pursue a citizen of the United States for debt or damage before the consul's court in China. This question is put in the most general form, for so, in truth, it needs to be considered, although it has been presented as a special question of an assumed or suggested right of the government of China to sue for duties on imports or exports due, or claimed to be due, from citizens of the United States.

124. Here, within the territorial limits of the United States, beyond all peradventure, the Great Khan may, *for good and lawful cause*, bring suit in some proper court against a citizen of the United States.

125. In England, it has been held from the earliest times that a foreign prince or government may appear and prosecute suit before the courts of the realm, either at law or in equity.[1] The King of Spain has been several times a suitor in the courts of England.[2] The Queen of Portugal has appeared occasionally.[3] The King of Hanover has also been a party, both plaintiff and defendant.[4]

[1] Calvin's case, 7 Co. R. p. 30, citing 11 Edw. III.

[2] Roi d'Espaigne *v.* Pountes, Rolle's Abr. tit. Court d'Adm. E. 5; Spanish Ambassador *v.* Pountes, 1 Rolle's R. p. 133; King of Spain *v.* Hallett, 1 Clk. and F. p. 333, and 7 Bligh, 559; King of Spain *v.* Tacon, 4 Russ. 225; King of Spain *v.* Machado, ibid. p. 560; King of Spain *v.* Mendizabel, cited in Col. Gov. *v.* Rothschild, 1 Sim. p. 101. See also Hallett and King of Spain, 2 Bligh, N. S. p. 31.

[3] Queen of Portugal *v.* Glyn, 7 Clk. and F. p. 466. See also Glyn *v.* Queen of Portugal, 1 Younge & C. p. 644.

[4] King of Hanover *v.* Wheatly, 4 Bev. p. 78; Duke of Brunswick *v.* King of Hanover, 6 Bev. p. 1.

126. In the Vice Chancellor's Court, in England, it has been adjudged, it is true, that the Republic of Columbia could not be heard as plaintiff in equity.[1] But this decision has been overruled in the United States.[2]

127. In Pennsylvania, we have had the case of the King of France *v.* Morris.[3] The King of Spain has appeared in the circuit court of the United States.[4] The King of Prussia has been plaintiff in the State of Missouri.

128. One of the cases above cited is particularly interesting, because it is a suit by the King of Spain against a citizen of the United States for duties on imports into the port of Vera Cruz. This appears by the charge of the court on the trial of the case. In that charge, it is not intimated that the King of Spain might not well sue in our courts for duties: and the answer of the defendant consisted of other matters; such as, that the duties were not due from this defendant, but from another party; and that they had in fact been paid or adjusted in account by that other party.[5]

Suits by the Chinese government.

129. While, on its face, this case goes to show that a foreign government may sue in the United States for duties, yet such conclusion must be taken with the reservation that it was a case at *nisi prius.* It is open to very serious objections, as applied to the case of a suit by the Chinese government for *duties.* That is to say, our courts are free to foreign

[1] Rep. of Columbia *v.* Rothschild, 1 Sim. p. 94.
[2] Republic of Mexico *v.* Arrangoiz, MS.
[3] Referred to in Peter *v.* Steel, 3 Yeates, 250, 251.
[4] King of Spain *v.* Oliver, 2 Wash. C. C. R. 429.
[5] King of Spain *v.* Oliver, 1 Peters' C. C. R. p. 276. See also ibid. p. 217.

sovereigns for many purposes; but *non constat* that they are in all cases. And, among the questionable matters, are things of *political* obligation, as distinguished from municipal engagement.[1] This consideration may or may not be material to the present inquiry. At any rate, it suggests reflection as to the bearing of the treaty upon the question.

130. On referring to the treaty with China, not a single word is found which implies that the judicial authorities of the United States there may entertain the suit of a government or sovereign. The treaty mentions explicitly "the subjects of China" and "the subjects of other governments," and "subjects" alone, as the parties to legal controversy, in which the public officers of the United States are to intervene. But the statute, as we have already seen, is but coextensive with the treaty, and confers jurisdiction of those controversies, whatever they may be, which the treaty contemplates as the object of legal adjudication, and no others. Of course, as it would seem, the consular courts cannot entertain a suit by the government of China.

Questions involving payment of duties.

131. There is another class of considerations, which is conclusive. It is, that the treaty makes full provision as to the mode of assessing duties, and the means of securing their payment; and the provision on these points consists of political engagements. The consul of the United States is to adjust all disputes of appraisement with the Chinese superintendent of customs. That is political, not judicial, action. So, without payment of duties, the superintendent refuses to deliver a clearance, and the consul

[1] Nabob of Carnatic *v.* East India Com. 1 Ves. pp. 371, 388; 2 Ves. p. 55.

withholds the ship's papers. This is political action on both sides. And it is preventive action, and, therefore, better than remedial. The government of the United States engages to the government of China that, until the duties be adjusted, no ship shall receive her papers; and the consul sees to this on the part, and as the officer of the United States.

132. It is not maintained that the treaty might not have stipulated a purely judicial remedy in these cases, but only that it has not done this. It has provided other remedies, such as the high contracting parties at the time saw fit to agree to by sovereign convention. If it be desirable on either side to change the provision of the treaty in that respect, and to open the consular courts to the Chinese government for the collection of duties, as, to that, and all other governments, courts within the United States are open, an opportunity may hereafter be afforded when the treaty becomes subject to revision and amendment. But whether any such change be expedient or not, is a diplomatic question, for the determination of the President.

Importance of the act.

133. The act of Congress, which is here commented on, is a most important and valuable one. It made provision, however, for a description of cases new, in form at least, to the legislation of the United States, and subject, of course, to such amendment as time and experience might show to be desirable. Instructive suggestions on this point have been presented to the Department by the commissioner of the United States in China.[1]

[1] Mr. Marshall to Mr. Marcy, December 8, 1853, Ex. Doc. No. 133, B, 33d Congress, 1st sess. p. 331; many of these suggestions have been embodied in the act of June 22, 1860. Statutes at Large, vol. xii. pp. 72, 79.

CHAPTER IV.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN CHINA.

Treaty stipulations.

134. UNDER the treaties of the United States with China, American citizens charged with the commission of criminal offences in China are withdrawn from the jurisdiction of that country, and are subject to be tried and punished only by the consul, or other public functionary of the United States thereto authorized, according to the laws of the United States. In like manner, all litigated questions arising between American citizens in China, involving the rights of persons or of property, are subject to the jurisdiction and regulation of the authorities of their own government; and controversies occurring in that country between American citizens and the subjects of other governments are to be regulated by existing treaties without interference on the part of China.[1]

Act of August 11, 1848.

135. These are very important concessions to American citizens, and, taken in connection with the acts of August 11, 1848,[2] and of June 22, 1860, to carry into effect the provisions of the existing treaty with China and the Ottoman Porte, by vesting judicial powers in the commissioner and consuls in China, they impose weighty duties and responsibilities.

[1] Statutes at Large, vol. viii. p. 597.

[2] Ibid. vol. ix. p. 276; ibid. vol. xii. pp. 72–79. See also chapter iii., supra.

136. By the provisions of these acts, the laws of the United States are extended over the citizens of the United States in China; and wherein they are found deficient, recourse is to be had to the common law; and if neither the common law nor statutes of the United States furnish suitable remedies, the minister is authorized by decrees and regulations, which have the force of law, to supply the deficiencies: such regulations and decrees are required to be transmitted to the Secretary of State to be laid before Congress. The decision of the consular officer, who, in cases of intricacy is to be aided in his judgment by one or more citizens of the United States, is subject, in civil cases beyond a certain amount, to an appeal to the minister. The only capital cases are murder, and insurrection or rebellion against the Chinese government; and in all other criminal cases the punishment is fine and imprisonment, with an appeal to the minister; and no person can be convicted of a crime punishable with death, unless the consular officer and his associates all concur in opinion, and the minister approves of the conviction.[1] The minister and the consuls may call on the Chinese authorities to support them in the exercise of the powers confided to them.

Statute provisions.

137. It is provided by the fifth and sixth sections of the act first above mentioned, that, in order to organize and carry into effect the system of jurisprudence demanded by said treaty, the commissioner, with the advice of the several consuls for the ports named in said treaty, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said

[1] Statutes at Large, vol. xii. p. 75.

consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry the act into effect, shall be appointed and compensated; the form of bail bonds, and the security which shall be required of the party who appeals from the decision of a consul; and, generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of the act, as the exigency may demand: and all such regulations, decrees, and orders, shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the consuls or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the minister may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it become binding and obligatory until annulled or modified by Congress, and it shall take effect from the publication or any subsequent day thereto named in the act.

Publication of decrees, etc.

138. All such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the commissioner, with the opinions of his advisers, as drawn up by them severally, to the

Secretary of State, to be laid before Congress for revision.

139. The high powers conferred by these and other provisions of the acts referred to, are to be exercised, after careful deliberation, with the utmost discretion; a thorough study of the instructions, in the preceding chapter, on the "judicial authority of the commissioner or minister and of consular officers of the United States in China and Turkey," is specially enjoined upon all officers exercising such functions in those countries. Cautionary injunctions.

140. It is of the utmost importance to the interests of the United States in China, that the stipulations of the treaties should be carefully regarded, and all violations thereof, either by our own citizens or by the Chinese, repressed or prevented; and in all controversies between them, growing out of commercial or social intercourse, justice should be promptly and impartially administered. Observance of the treaty.

141. A rigid observance of the faith of treaties is appreciated by all mankind, whether civilized or savage, and consuls cannot be too vigilant, both by their authority and influence, in their efforts to impress upon our countrymen in that distant region the necessity of regulating their conduct toward the natives by those great principles which bind nations together in bonds of mutual peace and harmony. A trifling individual advantage, unfairly obtained in our intercourse with so jealous and suspicious a people as the Chinese, may do essential injury, for years to come, to the character of our country, and its great commercial interests.[1] Sanctity of treaties.

142. In the present agitated state of China, the

[1] Instructions to Commissioner Everett, MS., April 15, 1845.

Vigilance enjoined.

property of our citizens and their rights are probably in unusual danger; consular officers will therefore be vigilant and active in affording them all the protection within their power.

Local difficulties.

143. The nineteenth article of the treaty of 1844 stipulates, in regard to citizens of the United States, that if their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the consul, will immediately despatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law.[1] These stipulations should be strictly observed; and whenever a riot shall be apprehended, a requisition should be made by the consular officer on the "local officers" for "a military force to disperse the rioters." If, after such a requisition by the consular officer, the local officers should refuse or neglect immediately to despatch a military force to disperse the rioters, the Chinese government would be responsible for all the injuries resulting from this neglect or refusal. If the property of American citizens should be destroyed in consequence of a failure on the part of the "local officers" to perform this treaty obligation, the Chinese government would be bound to repair the loss.[2]

Violation of Chinese laws by American citizens.

144. In case of the violation of the Chinese laws in regard to imports by any of our citizens, the consular officers, respectively, will notify them that it is stipulated by the thirty-third article of the treaty, that "citizens of the United States who shall attempt to trade clandestinely with such of the ports of China as

[1] Statutes at Large, vol. viii. p. 596.

[2] Instructions to Commissioner Everett, MS., June 28, 1847.

are not open to foreign commerce, or who shall trade in opium, or any other contraband article of merchandise, shall be subject to be dealt with by the Chinese government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the laws of the Empire."

Observance of Chinese revenue laws.

145. Consular officers should cause it to be clearly understood, both by Americans in China, and, so far as it is possible, by the Chinese themselves, that the government from which they derive their authority has no disposition to encourage, and will not encourage, any violation of the commercial regulations of China by citizens of the United States. They will state, in the fullest manner, the acknowledgment of the government, that the commercial regulations of the Empire, having become fairly and fully known, ought to be respected by all ships and all persons visiting its ports; and if citizens of the United States, under these circumstances, are found violating well-known laws of trade, their government will not interfere to protect them from the consequences of their own illegal conduct.[1] The important act of Congress, approved February 19, 1862, "to prohibit the 'Coolie trade' by American citizens in American vessels," is commended to the special consideration of all consular officers in China. It is fully expected that they will carefully see that its provisions are strictly observed, and, in case of the violation of them, in any case, that they will take the requisite steps to

Coolie trade.

[1] Mr. Webster's instructions to Mr. Cushing, May 8, 1843.

enable the Department to prosecute and bring to punishment the offenders.

Commercial restrictions.

146. In the present condition of China, it is believed that the United States consular officers may do much by the exercise of a prudent, though firm and independent, course of conduct, to remove some of the onerous commercial restrictions existing in China, and obtain increased facilities of intercourse, not exclusively for the citizens of their own country, but to open the Chinese Empire generally to the commercial enterprise of all the civilized nations of the world. For the accomplishment of this object, consular officers will do what they can within their proper sphere of action. Nevertheless, all treaty stipulations with China must be respected, and the settled policy of the United States, of non-interference in the contests which arise between the people and their rulers, must be observed.[1]

Consular discretion.

147. The very great distance of China from the seat of government of the United States, the delay in receiving and transmitting communications between it and the United States consular officers, and the constantly changing aspect of affairs in that distant country, render it necessary to leave much to the discretion and good judgment of those who have charge of the commercial and other interests of the United States there.

Injunctions.

148. Consular officers will, on all proper occasions, cultivate the friendly disposition of the Chinese people, avoiding as far as possible the giving of offence either to their pride or their prejudices. They will assure them that it is both the desire and the interest of the United States that they shall be prosperous, united,

[1] Mr. Marcy's instructions to Mr. Marshall, June 7, 1853.

and at peace with foreign nations, and among themselves; that this country has no ambitious designs to accomplish in regard to them, no desire to acquire any of their territory; and that the greater and more prosperous they become, the more mutually beneficial will be the trade between the two countries. Their prosperity will be for the good of the United States, and whatever tends to impair it, a loss.

Diffusion of information.

149. Consular officers may do much toward furnishing the Chinese people with correct and accurate knowledge, in respect to the political power and commercial resources of other nations in comparison with their own, and in this manner lead them to entertain for the United States a respectful consideration. They may also induce the Chinese to adopt higher and more just principles in their intercourse with other nations, and thus these officers will advance the commercial prosperity of this country, whose interests in that distant region are in a measure entrusted to their care, as well as secure benefits and blessings to China.

Absence and appointment of a vice consul.

150. In case a consul in China should find it necessary, for urgent reasons, temporarily to leave his post, with the consent of the President, he is authorized to appoint, with the approbation of the minister, some suitable person to act as vice consul, subject to the provisions of law and the regulations prescribed by the President for the government of consular officers.

[1] At the date of the passage of the act of August 11, 1848, the United States were represented in China by a Commissioner; subsequently, however, the office was made a full mission, and an Envoy Extraordinary and Minister Plenipotentiary appointed. For recent treaties of Russia, France, and Great Britain, with China, see Executive Document, 36th Congress, 1st sess. pp. 387, 395, 409; and for the last treaty of the United States with China, Statutes at Large, vol. xii. pp. 71–78.

CHAPTER V.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN TURKEY.

Northern conquerors.

151. In the early stages of the progress of the northern conquerors over Europe, they were accustomed to allow to such of the conquered nations as desired it, the privilege of being governed by their own peculiar laws and tried by their own magistrates.[1]

Local jurisdiction.

152. As the several European governments became consolidated, the conquerors and the conquered coalesced into one people, and their separate jurisdictions disappeared; the more modern idea now prevails, that each government is in general to exercise exclusive jurisdiction over all persons in its territory, with a few exceptions established by specific treaties, or by the customs of Christian nations. The old usage, however, remains in full force in the East.

153. In Mohammedan and Pagan countries each Christian State asserts for its subjects more or less of exemption from the authority of the local sovereign. Thus, at the present time, throughout Christendom, the general rule prevails that foreigners are subject, in all criminal and in most civil matters, to the local jurisdiction; but in Mohammedan and Pagan States, a different rule obtains.

[1] See chapter ii. supra; also chapter iii.

154. In the law of nations, as to Europe, the rule is, that men take their national character from the general character of the country in which they reside; and this rule applies equally to America. But in Asia and Africa, an immiscible character is kept up, and Europeans, trading under the protection of a factory, take their national character from the establishment under which they live and trade. National character.

155. This rule applies to those parts of the world from obvious reasons of policy, because foreigners are not admitted there, as in Europe and the western part of the world, into the general body and mass of the society of the nation, but they continue strangers and sojourners, not acquiring any national character under the general sovereignty of the country.[1] The subjects or citizens of Christian States, who may happen to be sojourning or even permanently residing in Turkey and its dependencies, are privileged persons, politically as well as commercially. In all cases the ministers and consuls of their country have exercised, in regard to them, not only a protecting political authority, but also, under sundry qualifications and modifications, varying according to treaty or usage, judicial functions and jurisdiction.

156. Our earliest treaty with Turkey provides that "if litigations and disputes should arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced, unless the American dragoman be present. Causes in which the sum may exceed five hundred piastres shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United Treaty with Turkey; stipulations.

[1] Kent, vol. i. pp. 78, 79.

States of America, quietly pursuing their commerce, and not being charged or convicted of any crime or offence, shall not be molested; and even when they may have committed some offence, they shall not be arrested and put in prison by the local authorities, but they shall be tried by their minister or consul, and punished according to their offence, following in this respect the usage observed toward other Franks."[1]

Act of August 11, 1848.

157. By the twenty-second section of the act approved August 11, 1848, and the twenty-first section of the act of June 22, 1860, the provisions of these acts, so far as they relate to crimes committed by citizens of the United States, are extended to Turkey, under the treaty with the Sublime Porte of May 7, 1830, and are to be executed in the dominion of the Sublime Porte, in conformity with the provisions of the treaty, by the minister of the United States, and the consuls appointed by the United States to reside therein, who are ex officio vested with the powers conferred by the acts for the purposes therein expressed, so far as regards the punishment of crime.[2]

Consul; meaning of the term.

158. It is further stipulated that the *word* consul shall be understood to mean any person vested by the United States with and exercising the consular authority in any port of Turkey.

Consular protection.

159. By the laws of Turkey and other Eastern nations, the consulates therein may receive under their protection strangers and sojourners whose religion and social manners do not assimilate with the religion and manners of those countries.

160. The individuals who are thus protected become thereby clothed, for the time being, with the

[1] Statutes at Large, vol. viii. p. 409.
[2] Ibid. vol. ix. p. 279.

nationality of the protecting consulate. Usage, if not positive stipulation, recognizes and sanctions the rights acquired by this connection. Consular officers of the United States are, however, instructed that, while it is expected that the same rights and privileges will be accorded to them in regard to protecting persons not citizens of the United States as may be enjoyed by the consuls of other nations who have no special treaty stipulation on the subject, they are to exercise this right with much discretion.

Discretion to be observed in extending consular protection to aliens.

161. If custom in Turkey gives to foreign consular officers the right of protecting even Ottoman subjects, it is presumed that this right is limited to such persons as may be absolutely necessary for the discharge of the consular duties, and must have originated in consequence of the difficulty of obtaining persons not subjects of the Porte sufficiently acquainted with the Oriental languages. No person must be employed in the American consulates for the purpose of screening him from prosecutions for offences against the laws of the country, nor any one known to be reasonably objectionable to the Turkish government.[1]

Ottoman subjects and others not to be screened from justice.

162. European consulates in the East are in the constant habit of opening their doors for the reception of inmates, who are received irrespective of the country of their birth or allegiance, and it is not uncommon for them to have a large number of persons thus protected. International law recognizes and sanctions the rights acquired by this connection. No passports or certificates of citizenship are to be given to such individuals, but simply a *tezkereh*, or certificate that the person to whom it is given is cared for and received under the protection of the

No passports or certificates of citizenship to be given to aliens under

[1] See instructions to consuls in Turkey, August 24, 1861. MS.

consular protection; their names to be reported.

government whose agent has granted it, and the names of all persons who are thus furnished with protections must be reported to the Department of State.[1]

Commercial intercourse.

163. Under the existing treaties between the United States and Turkey, our commerce is placed on the footing of the most favored nations; thus securing to our merchant vessels the privilege of trading to all the points of Turkey in Europe, Asia, and Africa, on the same conditions as those granted to the most favored nations. Thus our vessels may now trade to the ports of Egypt and Asia Minor, to the Turkish Islands of the Archipelago, and to the Ottoman ports of Europe, and on the Asiatic shore of the Black Sea. This is at once an immense field for the enterprise of our merchants and seamen. Many facilities are thus offered for the extension of our commerce with the nations of the East; and consular officers may render important services to their countrymen by collecting all the information in their power in regard to the productions and commerce of these countries, and transmitting it to this Department, by which it will be published from time to time for the general advantage of American citizens.

Consular agents.

164. Considering the extensive powers conferred upon consuls by the treaties of the United States with Turkey, great care must be exercised in the selection of persons for appointment as vice consuls or consular

[1] For the jurisdiction of consuls in the Levant, China, and Muscat, see Moreuil, Manuel des Agents Consulaires, pp. 127–377; also Mensch, Manuel Pratique du Consulat, p. 3; Wheaton's Elements of International Law, p. 122 and note; also Miltitz, tome i. p. 524; Tuson's British Consul's Manual, p. 122 et seq., and chapter iii. of this volume, on the judicial authority of the commissioner and minister, and of consuls of the United States in China and Turkey; Phillimore, vol. ii. pp. 271–275.

agents, and their number should not be unnecessarily multiplied.

165. The acts of Congress of August 11, 1848, and June 22, 1860, provide in terms for the exercise of judicial authority by ministers and consuls in Turkey, only so far as regards the punishment of crime, leaving the question of civil jurisdiction to stand upon treaties or the peculiar public law of the Levant. The important distinction thus made as between China and Turkey may have arisen from some doubt as to the force and effect of the provisions, on this point, contained in the treaty between the United States and the Ottoman Porte. The language of the treaty is inexplicit, and apparently somewhat equivocal.[1]

Judicial authority in Turkey.

166. In one article it is stipulated that "American merchants established in the well-defended States of the Sublime Porte for purposes of commerce * * shall not be disturbed in their affairs, nor shall they be treated in any way contrary to established usages."

Treaty stipulations.

167. The treaty further stipulates that the United States may appoint consuls "at the commercial places in the dominions of the Sublime Porte, where it shall be found needful, to superintend the affairs of commerce;" which consuls "shall enjoy suitable distinction, and shall have necessary aid and protection."

168. Now, upon the superficies of these articles, and of all the rest of the treaty, citizens of the United States are entitled to residence in Turkey, and to exemption from molestation there, only in pursuit of "commerce," and consuls are but officers "to superintend the affairs of commerce." It is true, that Americans in Turkey, committing crime, are to be

[1] Opinions of the Attorneys General, vol. vii. p. 566 et seq.

tried by their minister or consul, "following in this respect the usage observed toward other Franks;" and the American "dragoman" (not the minister or consul) is to be present at the trial of any litigation or dispute between the subjects of the Porte and citizens of the United States. But how is it in the case of a "dispute" between two citizens of the United States in Turkey, or a citizen of the United States and a subject of Austria, France, or Great Britain? As to these important questions, the treaty is either silent or obscure. What are the "causes in which the sum (demanded) exceeds five hundred piastres," and which are to be "submitted to the Sublime Porte to be decided according to the laws of equity and justice?" Are these causes between citizens of the United States or between citizens of the United States and other Franks, or causes of the class described in a preceding sentence, that is, between Americans and subjects of the Porte? All that, in the language of the treaty, is a matter of construction, with much margin for controversy.

169. As to all civil affairs to which no subject of Turkey is a party, Americans are wholly exempt from the local jurisdiction; and in civil matters, as well as criminal, Americans in Turkey are entitled to the benefit of "the usage observed toward other Franks."

Construction of the treaty.

170. The "causes" spoken of in the second sentence of the fourth article are of the same nature, as to parties, as the "litigations and disputes" mentioned in the first sentence, that is, between citizens of the United States and subjects of the Porte; the meaning of which is, that causes between such parties, under five hundred piastres in amount, are to be decided by

the ordinary local magistrates, assisted by the dragoman, and causes above that amount, by the Porte itself, that is, the Sultan or his appropriate minister, with intervention of the minister or consul of the United States. The phrase in the second article engages that citizens of the United States in Turkey shall not be "treated *in any way* contrary to established usages." The "established usages" are the absolute exemption of all Franks, in controversies among themselves, from the local jurisdiction of the Porte.

171. The general doctrine thus in force in the Levant, of the exterritoriality of foreign Christians, has given rise to a complete system of peculiar municipal and legal administration, consisting of—

1. Turkish tribunals for questions between subjects of the Porte and foreign Christians;

2. Consular courts for the business of each nation of foreign Christians;

3. Trial of questions between foreign Christians of different nations in the consular court of the defendant's nation;

4. Mixed tribunals of Turkish magistrates and foreign Christians, at length substituted in part for cases between Turks and foreign Christians;

5. Finally, for causes between foreign Christians, the substitution at length of mixed tribunals in place of the separate courts,—an arrangement introduced first by the legations of Austria, Great Britain, France, and Russia, and then tacitly acceded to by the legations of other foreign Christians.

172. Notwithstanding the apparent silence of the fourth article of the treaty upon the whole subject of the civil affairs of Americans, and the seeming refer-

ence of their crimes alone to "the usage observed toward other Franks," yet the engagement in the second article covers this ground by securing to Americans in Turkey, and consequently to the consuls of the United States, the same rights and privileges which are enjoyed by those of Austria, Great Britain, France, or Russia. This statement receives illustration from the tenor of all our treaties with the Barbary States. The earliest, that with Algiers, may be taken as a type. It provides, in article XV., as follows:[1]

First treaty with Algiers.

"Any disputes or suits at law, which may take place between the subjects of the Regency and the citizens of the United States of North America, shall be decided by the Dey in person, and no other.

"Any disputes which may arise between citizens of the United States, shall be decided by the consul; *as they are, in such cases, not subject to the laws* of the Regency."[2]

Second treaty with Algiers.

173. The same subject is yet more comprehensively regulated in a second treaty with Algiers, as follows:

"If any of the citizens of the United States, or any persons under their protection, shall have any disputes with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from the government of Algiers to enforce his decision, it shall be immediately granted to him; and if any disputes shall arise between any citizens of the United States and the citizens or subjects of any other nation having a consul or agent in Algiers, such disputes shall be settled by the consuls or agents of the respective nations; and any disputes or suits at law that may take place between any citizens of the United States and the subjects of the Regency of Algiers, shall be decided by the Dey in person, and no other."[3]

[1] Statutes at Large, vol. viii. p. 247. [2] Ibid. [3] Ibid. p. 227.

174. Similar provisions in effect, though in different language, occur in the two treaties with Tripoli;[1] and in the two treaties with Tunis.[2] Tripoli and Tunis.

175. Although Morocco does not stand in the same qualified dependence on the Porte with Tripoli and Tunis, and, as formerly, the old Regency of Algiers, yet Americans are placed on the like footing there as in the States of Turkish Barbary.[3] A similar provision exists in the treaty with the Imaum of Muscat.[4] Morocco and Muscat.

176. All these treaties, assuming and recognizing the same doctrine of public law, that is, the exterritoriality of Americans, and the judicial as well as diplomatic authority of American consuls, serve to construe and to explain whatever there is uncertain, obscure, or vague in the treaty with the Ottoman Porte.[5] Rule of construction.

[1] Statutes at Large, vol. viii. pp. 153, 216. [2] Ibid. pp. 160, 299.
[3] Ibid. pp. 103, 486. [4] Ibid. p. 459.
[5] A new treaty containing important stipulations was negotiated between the United States and Turkey, and signed at Constantinople, February 25, 1862. See Session Statutes, 2d sess. 37th Congress; also, Statutes at Large, vol. xii.

CHAPTER VI.

DUTIES OF UNITED STATES CONSULAR OFFICERS IN AFRICA.

Morocco.

Treaty with Morocco; stipulations.

177. It is stipulated by the nineteenth article, and the three articles following it, of the treaty[1] concluded between the United States and Morocco, October 1, 1837, that if any of the citizens of the United States, or any persons under their protection, shall have any dispute with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from the government of Morocco, to enforce his decisions, it shall be immediately rendered to him.

Homicide.

178. If a citizen of the United States should kill or wound a Moor, or, on the contrary, if a Moor shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

Decedents' estates.

179. If an American citizen shall die in Morocco, and no will shall appear, the consul shall take possession of his effects; and if there shall be no consul, the effects shall be deposited in the hands of some

[1] Statutes at Large, vol. viii. p. 486.

person worthy of trust, until the party shall appear who has a right to demand them; but if the heir to the person deceased be present, the property shall be delivered to him without interruption; and if a will shall appear, the property shall descend agreeably to that will, as soon as the consul shall declare the validity thereof.

Consular residence.

180. The consul of the United States is permitted to reside in any seaport of the dominions of the Emperor of Morocco that he shall think proper; and he shall be respected, and enjoy all the privileges which the consuls of any other nation enjoy; and if any of the citizens of the United States shall contract any debts or engagements, the consul shall not be in any manner answerable for them, unless he shall have given a promise in writing for the payment or fulfilment thereof; without which promise in writing no application to him for any redress shall be made.[1]

Tripoli.

Treaty with Tripoli; stipulations.

181. By the treaty[2] concluded with Tripoli, June 4, 1805, it is stipulated that the consuls and agents of both nations, respectively, shall have liberty to exercise their own religion in their houses; and those of the same religion shall not be impeded in going to the consul's house at the hour of prayer. The consuls shall have liberty and personal security given them to travel within the territories of each other both by land and sea, and shall not be prevented from going on board any vessel that they may think proper to visit. They shall have likewise the liberty to appoint their own dragomans and brokers.

[1] See section 175, supra. [2] Statutes at Large, vol. viii. p. 216.

Disputes between contracting parties.

182. In case of any dispute arising between the contracting parties, no appeal shall be made to arms, nor shall war be declared under any pretext whatever; but if the consul residing at the place where the dispute may happen shall not be able to settle the same, the government of the country shall state its grievances in writing, and transmit it to the other; and the period of twelve calendar months shall be allowed for answers to be returned; during which time no act of hostility shall be permitted by either party; and in case the grievances are not redressed, and a war should be the event, the consuls and citizens or subjects of both parties, respectively, shall be permitted to embark, with their effects, unmolested, on board of what vessel or vessels they shall think proper.

Disputes between individuals.

183. If any disputes shall arise between citizens of the United States, or any persons under their protection, such disputes shall be settled by the consul of the United States in the same manner as in Morocco.

Homicide.

184. The same provision is made in the treaty with Tripoli, respecting homicides, as in the treaty with Morocco.

Decedents' estates.

185. The care of the property of citizens of the United States dying in the Regency of Tripoli is to be committed to the consul, unless otherwise disposed of by will; and no hindrance is to be interposed to the execution of any will that may appear.[1]

Tunis.

Treaty with Tunis; stipulations.

186. The treaty[2] of the United States concluded with Tunis, March 26, 1799, provides that bills of sale may be furnished by the United States consul

[1] See section 174, supra. [2] Statutes at Large, vol. viii. p. 160.

to American citizens who may purchase prize vessels in Tunis. Each of the contracting parties is at liberty to establish a consulate in the country of the other; and the consul shall enjoy, as well for himself as his family and suite, the protection of the government. He is allowed to import, for his own use, all his provisions and furniture, without paying any duty; if he imports merchandise, he is required to pay duty for it.

Debts and obligations.

187. No responsibility is incurred by either country, the consuls, or the citizens thereof, for debts contracted, or obligations entered into, except they or their consul shall have previously become bound in writing. The consul of either country is to administer upon the effects of a decedent, being a citizen or subject of his own country and dying in the other, and the government of the place shall have nothing to do therewith.

Administration upon the estates of decedents.

Disputes between citizens of the United States and individuals under consular protection.

188. Disputes between citizens of the United States, or between all other persons who may be immediately under the protection of the consul, are to be decided by him; and if he requires the assistance of the government to enforce his decisions, it shall be granted to him.

Homicide.

189. In trials in cases of homicide, the *lex loci* shall prevail, and the consul shall be present thereat.

Trial.

190. If a dispute or lawsuit on commercial or other civil matters shall happen, the trial shall be had in the presence of the consul, or some other confidential person of his choice who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations.[1]

[1] See section 174, supra.

Muscat.[1]

191. The ninth article of the treaty,[2] concluded September 21, 1833, between the United States and the Sultan of Muscat, provides that the President may appoint consuls to reside in the ports of the Sultan, where the principal commerce shall be carried on; which consuls shall be the exclusive judges of all disputes or suits wherein American citizens shall be engaged with each other. They shall have power to receive the property of any American citizen dying within the kingdom, and to send the same to his heirs, first paying all his debts due to the subjects of the Sultan. The said consuls shall not be arrested, nor shall their property be seized, nor shall any of their household be arrested, but their persons and property and their houses shall be inviolate. Should any consul, however, commit any offence against the laws of the kingdom, complaint shall be made to the President, who shall immediately displace him.[3]

Jurisdiction in the Barbary States.

192. It is provided by the important act[4] of June 22, 1860, to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, That the provisions of this act, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco, and Muscat, respectively, shall extend to those countries, and

[1] Formerly the principal residence of the Imaum was in Zanzibar, in Africa, but since the death of the late ruler, his dominions have been divided between his two sons, the one having his capital at Muscat, and the other at Zanzibar.

[2] Statutes at Large, vol. viii. 459.

[3] See section 175, supra.

[4] Statutes of the United States, vol. xii. p. 78.

shall be executed in conformity with the provisions of the said treaties, and of the provisions of this act, by the consuls appointed by the United States to reside therein, who are hereby, *ex officio*, invested with the powers herein delegated to the ministers and consuls of the United States appointed to reside in the countries named in the first section of this act, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the said countries in their intercourse with the Franks or other foreign Christian nations.

Miscellaneous Instructions.

Commercial intercourse to be encouraged.

193. The increasing commercial intercourse between the United States and Africa demands attention on the part of the several United States consular officers, and it is especially the duty of these officers, wherever stationed, to cultivate and preserve friendly relations and intercourse between the citizens of their own country and those to which they are respectively accredited.

Official intercourse.

194. In the great African pashalics, although subject to the sovereignty of the Turkish Empire, the right is secured by treaty, and it should be strictly maintained, to address, whenever occasion requires it, the highest provincial as well as the local authorities of the place where the consul resides. And to enable the consul the better to discharge his duties, he bears with his commission a letter of credence, addressed to the highest authority in the pashalic, requesting him to be received in his official character, and to be duly respected; and also, that full credit

Credentials and duties.

may be given to what he shall represent on the part of his government, stating that the consul has been appointed to watch over the interests of the United States, and, by all honorable means, to maintain the harmony existing between the United States and the country to which he is sent. His official duties thus expand of necessity into a large field, because he is called upon to communicate with his own government and with that near which he resides, on matters which would otherwise devolve on a minister.

Information to be transmitted.

195. It is expected that consular officers in Africa will make themselves acquainted with the political state of the country in which their consulates are situated, and with the relations of that country with other countries, and communicate whatever they may learn on these subjects to the Department of State. Any commercial, statistical, geographical, or other interesting information, will be very acceptable to the government of the United States, and may greatly promote the interests of American citizens, by opening new avenues for trade and commercial intercourse. Consular officers are requested to make such suggestions, from time to time, as may occur to them for the accomplishment of these objects.

Piratical depredations.

196. The depredations which are occasionally committed by barbarians on some parts of the African coast demand unceasing vigilance. Consular officers will impress upon the authorities of the places where they reside, in the event of such depredations, that the United States will hold them responsible for all injuries to the persons and property of American citizens committed or tolerated within their territorial limits in violation of the established laws of civilized nations.

197. Consular officers are reminded that it is the practice of this government to respect the institutions of other countries, and its representatives abroad have on all occasions been instructed to give no countenance to persons who may wilfully violate the existing laws. Adhering strictly to this principle, consular officers will, of course, decline all official interference in cases in which the law of the land is in conflict with the demands of those who may invoke their interposition. Nevertheless, when claims are made against Mohammedans, under any local custom established among *alien residents*, although not in accordance with the Mohammedan laws, consular officers may employ their best exertions to bring the contending parties, by mutual agreement between themselves, to a settlement as favorable as possible for any American citizen who may be therein interested; but such claims must never be urged by imprisonment, nor by any other coercive measures, nor must any official proceedings upon them be demanded from the authorities of the place.

Non-intervention.

Claims.

The special attention of the consular officers of the United States in Africa is directed to the treaty for the suppression of the African slave trade, between the United States and Great Britain, concluded April 7, 1862, and to the act of Congress to carry into effect the above-mentioned treaty, approved July 11, 1862; also to the act authorizing the President to appoint diplomatic representatives to the republics of Hayti and Liberia, approved July 2, 1862.[1]

[1] See Statutes at Large, vol. xii.

CHAPTER VII.

DUTIES OF THE UNITED STATES CONSULS IN PERSIA AND SIAM; ALSO IN COUNTRIES AND ISLANDS NOT INHABITED BY ANY CIVILIZED PEOPLE.

Judicial authority of ministers and consuls.

198. It is provided by the act of June twenty-second, eighteen hundred and sixty, to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes, that the minister and the consuls of the United States, duly appointed to reside in each of the said countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties, be invested with the judicial authority described by the said act, which shall appertain to the said office of minister and consul, and be a part of the duties belonging thereto, wherein the same is allowed by treaty.[1]

Judicial authority in Persia.

199. It is provided by the twenty-eighth section of the act that the provisions of the act be, and the same are extended to Persia in respect to all suits and disputes which may arise between citizens of the United States therein; and the minister and consuls who may be appointed to reside in Persia are hereby in-

[1] Statutes at Large, vol. xii. pp. 72–79. See also chapter iii. of this volume.

vested, in relation to the said suits and disputes, with such powers as are by this act conferred upon the minister and consuls in China. And all suits and disputes arising in Persia[1] between Persian subjects and citizens of the United States, shall be carried before the Persian tribunal, to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. And all suits and disputes occurring in Persia between the citizens of the United States and the subjects of other foreign powers, shall be tried and adjudicated by the intermediation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agreed upon by the minister of the United States for the time being, and the ministers of such foreign powers, respectively, which regulations shall, from time to time, be submitted to the Secretary of State of the United States.

Persian tribunal.

Duty of consul.

Intermediation of ministers and consuls in Persia.

200. It is also provided by the thirtieth section of the act that the consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognized by any treaty with the United States, be, and the same are authorized to try, hear, and determine all cases in regard to civil rights, whether of person or property, where the real debt and damages do not exceed the sum of one thousand dollars, exclusive of costs, and upon full hearing of the allegations and evidence of both par-

Jurisdiction of consuls and commercial agents in certain islands and countries.

[1] Treaty with Persia, see Statutes at Large, vol. xi. pp. 709–711.

ties to give judgment according to the laws of the United States, and according to the equity and right of the matter, in the same manner as justices of the peace are now authorized and empowered where the United States have exclusive jurisdiction. And the said consuls and commercial agents, respectively, are invested with the powers conferred by the provisions of the seventh and eighth sections of the act for trial of offences or misdemeanors.[1]

[1] Statutes at Large, vol. xii. p. 78.

CHAPTER VIII.

DUTIES OF UNITED STATES CONSULAR OFFICERS TOUCHING THE SOLEMNIZATION OF THE RITE OF MARRIAGE.[1]

Consular marriages.

201. It has heretofore been the practice, to some extent, of the consuls of the United States abroad to marry parties, either citizens of the United States or not, and this without observance of the laws of the particular place regarding marriage; and the inquiry is suggested whether such marriages are valid in the United States, either as to the personal *status* of the parties themselves and their issue, or as to any of the rights of property depending on the matrimonial relation.

International law private.

202. This inquiry belongs to international law *private*, as distinguished from international law *public:* that is to say, it regards, not the relations of nations among themselves, but the relations of individuals to the laws, civil or criminal, of different nations.[2]

Community of Christian nations.

203. The different States of Christendom are combined, by religious faith, by civilization, by science

[1] This chapter embraces substantially an opinion of a late Attorney General of the U. S., dated November 4, 1854, given at the request of the Department of State, and which has received its sanction, touching the law of marriage, so far as relates to its celebration by United States consular officers. The importance of the subject and a misapprehension which prevails in relation to the duties of United States consular officers therewith, require its careful consideration.

[2] Fœlix, Dr. Int. Privé, tit. prél.

and art, by conventions, and by usages or ideas of right having the moral force of law, into a community of nations, each politically sovereign and independent of the other, but all admitting much interchange of legal rights or duties.[1]

Sovereignty of States.

204. The general rule of public law is, that each independent State is sovereign in itself, and possesses exclusive and absolute jurisdiction of all persons being, matters happening, contracts made, or acts done, within its own territory.[2]

Law of nations.

205. Although each nation possesses its territory as its own, and exercises jurisdiction within itself, not only as to persons, whether subjects or foreigners, their acts and their property therein, and in general neither claims for itself, nor concedes to others, external jurisdiction, yet each yields to the other certain reciprocal rights within itself, which are sometimes denominated by the civil law term of servitudes of the public law or law of nations.[3]

How established.

206. These privileges, servitudes, or easements of public law, have grown up either by express convention, or by usage founded on consent.[4] Among them are the effect which, in certain cases, one State concedes to the laws of another in regard to contracts made in the latter, and the reciprocal rights conceded of personal residence or commercial intercourse, and of the interchange of ministers and consuls; which concessions modify to a certain degree the hypothetical completeness of the internal sovereignty of each nation.

[1] Vattel, Droit des Gens, Prél. s. 11; Wheaton's Elements, p. 40; Garden Code Dip. de l'Europe, tome i. Int. p. 3.

[2] Kluber, Droit des Gens, s. 21 and passim; Story's Conflict of Laws, ch. 2.

[3] Martens, Précis, s. 83.

[4] Per Ch. J. Marshall, The Exchange, Cranch, vol. vii. p. 136.

207. Hence, in all the discussions of private international right, the fundamental and all-pervading distinction between the statute personal, or the laws of one's own proper domicile, and the statute real, or the laws which are independent of the person, and which regulate in a foreign country his acts or interests irrespective of his domicile, the personal statute is transitory, and follows the person; the real statute is chiefly confined to things, which it controls only in the *locus rei sitæ*, or the given territory.[1] **Statute personal and statute real.**

208. To the regular jurisdiction, however, of each country over persons, things, and acts being or done within it, there exist, by received public law, certain absolute exceptions. These exceptions are the several cases of exterritoriality: that is, the various conditions in which a person, though abroad, is exempt from the foreign jurisdiction, and is deemed to be still within the territory and jurisdiction of his own country. **Exterritoriality defined.**

209. The doctrine of exterritoriality is denounced by some speculative publicists as if it were a mere fiction of law.[2] This view of the matter is superficial, for it is only a cavil as to the name; and erroneous, because it argues upon the name, and not the thing which it represents. **Its reality.**

210. The word "exterritoriality" is a sufficiently definite technical designation for the peculiarity of legal condition already defined as attaching to certain persons in a foreign country, to wit, the case of an actual sovereign of an independent State, his person, suite, residence, and furniture, while he resides or **Explanation of the term.**

[1] Dalloz, Dict. Juris. s. v. Loi Pers.; Proudhon, Des Personnes, tome i. p. 8.

[2] See Pinheiro Ferreira, Droit Public, tome ii. p. 197

sojourns peaceably in a foreign country; a foreign army, whether in peace or war; a ship of war generally, and sometimes a merchant ship in a foreign port, and either of them on the high seas, in all circumstances; and a foreign ambassador.[1]

Extent of the privilege.

211. In all these cases, and expressly in that of foreign ministers, the privilege of exterritoriality extends to the residence as well as the person of the foreign minister, and to certain legal acts performed in his presence.[2]

Exterritorial privileges not enjoyed by consuls.

212. Such are the rights of an ambassador or other foreign minister. But, although consuls are not merely commercial agents, as many authors assert;[3] and although they undoubtedly have certain of the qualities and some of the rights of a foreign minister;[4] still it is undeniable that they do not enjoy the privileges of exterritoriality, according to the rules of public law received in the United States.[5]

Consuls subject to local jurisdiction.

213. In all the adjudged cases above cited, it is either expressly ruled, or the point presented assumes, that consuls are subject to the local jurisdiction. The same doctrine is recognized in the modern law trea-

[1] Wheaton's El. p. 139.

[2] Vattel, l. viii. ch. 7, 8, 9; Kluber, s. 204; Martens, Précis, l. vii. ch. 5; Fœlix, liv. ii. tit. 2, ch. 2, s. 4; Ch. de Martens, Guide Diplomatique, ch. 5.

[3] Wicquefort, Ambas. vol. i. p. 133; Bynkersh. de F. Legat. p. 165; Wildman's Institutes, p. 165.

[4] See de Cussy, Réglements Consulaires, sec. 7.

[5] Clark *v.* Cretico, 1 Taunton, 106; The Anna, 3 Wheaton, 446; United States *v.* Ravara, 2 Dallas, 297; Viveash *v.* Beeker, 3 Maule and Sel. 284; Barbuit's case, Cases Temp. Talbot, 281; Commonwealth *v.* Kestoff, 5 Serg. and R. 545; Durand *v.* Halback, 1 Miles, 46; Davis *v.* Packhard, 8 Peters, 276; S. C. 6 Wend. 327; S. C. 10 Wend. 50; Flynn *v.* Stoughton, 5 Barb. S. C. R. 115; State *v.* De la Foret, 2 Not. and M. 217; Mannhard *v.* Soderstrom, 1 Bin. 138; Hall *v.* Young, 3 Pick. 80; Sortori *v.* Hamilton, 1 Green's R. 107.

tises of most authority, whether in the United States or in Great Britain.[1]

Diplomatic privileges not accorded to consuls.

214. Notwithstanding the somewhat vague speculations of Vattel and some other continental authors on the question whether consuls are quasi ministers or not,[2] it is now fully established by judicial decisions on the continent, and by the opinions of the best modern authorities there, that consuls do not enjoy the diplomatic privileges accorded to the ministers of foreign powers; that in their personal affairs they are justiciable by the local tribunals for offences, and subject to the same recourse of execution as other resident foreigners; and that they cannot pretend to the same personal inviolability and exemption from jurisdiction which foreign ministers enjoy by the law of nations.[3]

Limitation of consular privileges.

215. In truth, all the obscurity and contradiction as to this point in different authors arise from the fact that consuls do unquestionably enjoy certain privileges of exemption from local political obligation; but still these privileges are limited, and fall very far short of the right of exterritoriality.[4]

Consular privileges.

216. Thus, in the United States, consuls have a right, by the constitution, to the jurisdiction of the federal courts as against those of States. They are privileged from political or military service, and from personal taxation. In some cases we have by treaty given to consuls, when they are not proprietors

[1] Wheaton's Elements, p. 293; Kent's Com. vol. i. p. 43; Wildman's Inst. vol. i. p. 130; Flynn's Brit. Consuls, ch. 5.

[2] Vattel, Droit des Gens, l. iv. ch. 8; De Cussy Réglements Consulaires, sec. 6; Moreuil, Agents Consulaires, p. 348; Borel, Des Consuls, ch. 3. See also chapters i. and ii. supra.

[3] Fœlix, l. ii. tit. 2, chap. 2, s. 4; Dalloz, Dic. de Jurispr. tit. Agents Diplomatiques, No. 35; Ch. de Martens, Guide Diplomat. s. 83.

[4] Massé, Droit Commercial, tome i. Nos. 338, 439.

in the country, and do not engage in commerce, a domiciliary and personal immunity beyond what they possess by the general public law; and the extreme point to which these privileges have been carried in any instance may be seen in the consular convention of the 23d of February, 1853, between the United States and France.[1]

The marriage contract.

217. In regard to the contract of marriage, the general principle in the United States is, that, as between persons *sui juris*, marriage is to be determined by the law of the place where it is celebrated. If valid there, then, although the parties be transient persons, and the marriage not in form or substance valid according to the law of their domicile, still it is valid everywhere—with some exceptions, *perhaps*, of questions of incest and polygamy. If invalid where celebrated, it is invalid everywhere.[2]

Exceptions to the general rule as to the validity of marriages.

218. The only exceptions to this last proposition, namely, that marriages not valid by the *lex loci contractus* are not valid anywhere else, are, first, in favor of marriage, when parties are sojourning in a foreign country where the law is such that it is impossible for them to contract lawful marriage under it. Secondly, in certain cases in which, in some foreign countries, the local law recognizes a marriage as valid when contracted according to the law of domicile. Thirdly, where the law of the country goes with the parties, that is, in the contingency of their personal exterritoriality, as in the case of an army and its followers invading or taking possession of a foreign country;[3] and, perhaps, of an army *in transitu* through a

[1] Statutes at Large, vol. x. p. 994.

[2] Story's Conflict of Laws, s. 113; Bishop on Marriage, s. 125.

[3] Ruding *v.* Smith, 2 Hagg. C. R. 371; Huber. Prælec. J. C. de con. leg. l. i. tit. 3, s. 10; J. Voet. in Dig. l. xxii. tit. 2.

friendly State,[1] and of a foreign ship of war in the ports of the nation.[2]

Marriage; how to be celebrated.

219. It follows by necessary consequence, save in the excepted cases enumerated, that a marriage, celebrated in any given place, must be celebrated according to the law of the place, and by a person whom those laws designate, unless the person by whom, or the premises in which, it is celebrated, possess the privileges of exterritoriality. Therefore it may be, according to the opinion of Lord Stowell, that the presence of a foreign sovereign sojourning in a friendly country, or that of his minister plenipotentiary, or the act of a clergyman in the chapel or hotel of such sovereign or his ambassador, may give legality to marriage between subjects of his or members of his suite.[3]

Right of a foreign sovereign or ambassador to celebrate marriages.

220. But even such right of a foreign sovereign or his ambassador to celebrate a marriage, if it exist, applies only to his subjects, countrymen, or suite. Such persons would be married according to the law of their domicile, or that of the sovereign or ambassador in whose service they are, on the assumption that for all the purposes of legal right their domicile goes with them, and that they are still at home, and in point of law are not in the foreign country where the marriage is in fact celebrated. A marriage celebrated by such sovereign or his ambassador in a foreign country, between citizens of that country, or foreigners residing or sojourning there, would derive no force from him; it would be null and void unless legal according to the law of the place.

[1] Wheaton's El. p. 140.

[2] The Exchange, Cranch, vol. vii. p. 136.

[3] Ruding *v.* Smith, 2 Hagg. C. R. 371; Prentiss *v.* Tudor, 1 Hagg. C. R. 136; 1 Burge on Col. and F. Laws, p. 168.

Consuls have no power to celebrate marriages.

221. Consuls, it is still more evident, have no shadow of power to celebrate marriage between foreigners. Nor can they between their own countrymen, unless expressly authorized by the law of their own country; because, according to the law of nations, they have not the privileges of exterritoriality, like an ambassador. That American consuls have no such power is clear, because it is not given to them by any act of Congress, nor by the common law of marriage as understood in the several States.[1] And marriage, in the United States, is not a federal question, but one of the resort of the individual States.[2] Hence, it is impossible to doubt:

Consular marriages; when valid.

First, that marriages celebrated by a consul of the United States in any foreign country of Christendom, between citizens of the United States, would have no legal effect here, save in one of the exceptional cases above stated, of its being impossible for the parties to marry by the *lex loci;*

And, secondly, that marriages celebrated by a consul of the United States in a foreign country, between parties not citizens of the United States, would have no legal effect here, unless in case they be recognized expressly as valid by the law of the place of contract.

Marriage in Scotland.

222. In countries where the mere consent of the parties, followed by copula, constitutes marriage, as in Scotland,[3] and where the presence and testimony of any person whatever suffice to prove the consent, a marriage contracted before a foreign consul might

[1] Kent *v.* Burgess, 11 Simons, p. 361.

[2] Bishop on Marriage, passim.

[3] McAdam *v.* Walker, 1 Dow's R. 148; Dalrymple *v.* Dalrymple, 2 Hagg. C. R. 97.

be valid, not because he is consul, but because the consent makes the marriage.

223. But, in most countries of Europe, specific forms of law are to be followed, without which there can be no valid marriage; and as it appears that the marriages which the consuls of the United States have celebrated abroad, have in most cases been celebrated between persons collected at some seaport for the purpose of emigration, and who are not only foreigners as regards the United States, but foreigners also as regards the place in which the marriage is celebrated, it becomes material to consider the question, in the sense of this impediment of double alienage, in its relation to the law matrimonial of the United States.

Double alienage in relation to the matrimonial law.

224. The general rule of our law is to ascribe validity to marriages when they are valid at the place of celebration.

General rule.

225. If the parties to the marriage are at the time actually in their own proper domicile, as in the case of Spaniards domiciled in Barcelona, and married there, it is clear that the local jurisdiction is absolute and complete, and that a consul of the United States has no more right to celebrate a marriage between such parties there, than he has to undertake the duties of Captain General.

When parties are in their own proper domicile.

226. Suppose, however, that the parties are foreigners to the foreign place, and at the same time not citizens of the United States?

When foreigners.

227. The other governments of Christendom, and especially those of Europe, are, it is notorious, much more exacting and punctilious than the United States in the application of their own laws of personal *status* to their own subjects when absent from their

Application of laws to absent subjects of foreign states.

country. We may not regard this, but they do among themselves; and therefore it is important to look at the legal bearings of a marriage celebrated in one European country between the subjects of some other government of Europe.

Validity of marriages as affected by the legal condition of the parties.

228. The general rule there is, that the civil obligations of a person follow him into a foreign country, save that in some countries forms are prescribed, according to which a subject may relieve himself of his allegiance to his natural sovereign, and the consequent civil obligations. It is believed that many of the persons who emigrate from Europe to the United States have not taken these preliminary steps; and therefore, until they shall have acquired a new domicile in the United States, and while they are sojourning in some other foreign country on their way for, and previous to their embarkation, they must of necessity be still subject to the law of their domicile in so far as this law is respected by the country of their transit or of their temporary sojourn; and the question of the validity of their marriage there by a foreign consul must depend on this legal condition of the parties in the countries of Europe.

Law in France.

229. In order to appreciate the legal relations in Europe of a marriage between parties foreign to the place of marriage, we may take, as a convenient example, the state of the law in France.

Law of marriage in France.

230. In France, of course, all Frenchmen must conform to the precise provisions of their own law; and, as a general rule, if they marry abroad, they must observe certain of the conditions of the Code Civil, in order to give effect to the marriage in France.[1]

[1] Code Civil, No. 170; Fœlix, ubi supra, No. 88.

231. In regard to such foreign marriages of Frenchmen, it has been adjudged by the courts of that country, that,— Foreign marriages of Frenchmen.

1. Frenchmen long established in a foreign country, and who have reserved no habitation and have no domicile in France, are not held to the forms of public notice there required by the Code.[1]

2. Generally, all acts appertaining to the civil condition of Frenchmen abroad may be proved by the modes of proof practised in the foreign country; and, therefore, a marriage may be proved by witnesses or by the certificate of a diocesan, when celebrated in a foreign country where no registers of civil condition exist conformable to the Code.[2]

3. There are no differences of opinion as to the point, that Frenchmen who marry abroad must conform to the provisions of the Code as to capacity, age, consent, and other conditions of substance; but there are contradictory decisions and opinions as to the point, whether it be or not essential to the validity of such marriage that there should have been previous publication of bans in France; and whether, if this be a radical defect, it is curable or not;[3] because the article of the Code which legalizes a marriage contracted between Frenchmen abroad according to the forms used in the foreign country, adds, provided (*pourvu*) the marriage be preceded by the publication of bans, and do not contravene the other conditions of law, as prescribed by the first and second chapters of the fifth title of the Code.[4]

4. The Code provides that any civil act of French-

[1] Dalloz, Dict. Jur., Mariage, No. 374.
[2] Dalloz, ubi supra, Nos. 346, 356. [3] Dalloz, ubi supra, Nos. 357, 375.
[4] See Toullier, Droit Civil, tome i. Nos. 574, 579.

men abroad shall be valid if it be drawn up in pursuance of the forms of the place, according to the rule *locus regit actum;* or if it has been received conformably to the laws by the diplomatic agents or consuls of France. It has been doubted whether this applies to marriage; though the better opinion is that it does.[1] It is said, however, that if one of the parties to a marriage by a French consul abroad is French and the other not, then the marriage is null, because the consul has no jurisdiction as to the party not French, and the marriage may be attacked by either party.[2] In one of the cases where this point was decided, the parties possessed an act of marriage, with twenty years' cohabitation, and two children.[3]

5. Finally, a marriage contracted in France by a foreigner according to the exterior forms prescribed by the law would be null, of intrinsic nullity, if the foreigner infringed any of the prohibitions of his statute personal; that is, of the personal law of his domicile.[4]

Marriage in the Netherlands.

232. These views might be extended in detail to other countries of Europe. Thus, in the Dutch Netherlands, in addition to the conditions of competency and of publication of bans, there must be legal contract before the proper magistrate, without which the marriage is a nullity.[5] As to this, no exception is made in favor of any persons whatever, being foreigners, or *in itinere*, or otherwise.[6] So, in Spain,

In Spain.

[1] Dalloz, ubi supra, Nos. 362, 363; Toullier, Droit Civil, tome i. No. 360; Merlin, Répert, Mariage, p. 641.

[2] Dalloz, ubi supra, Nos. 365, 366.

[3] Proudhon, Tr. des Personnes, tome i. note *a*.

[4] Fœlix, ubi supra, s. 88.

[5] Van der Linden, by Henry, p. 83.

[6] See Ruding *v.* Smith, 2 Hagg. C. R. 371, note.

marriage must be solemnized by prescribed rule, that is, through the intervention of the parish priest, or other clergyman with license of his ordinary, according to the articles of the Council of Trent concerning the reformation of matrimony.[1]

Objections to consular marriages.

233. It is unnecessary to extend these examples. Suffice it to say, that in some countries religious or ecclesiastical impediments exist; in others, where that is not the case, the legal conditions of capacity and requisite forms are very serious obstacles. A critical examination of the law of different countries of Europe would only serve to augment the weight of legal objections to the celebration of marriages by consuls of the United States.

A consular marriage; when and how objectionable.

234. It may be, that a marriage between foreigners celebrated by a consul of the United States abroad, though utterly null in the country where it is celebrated, might, if the parties emigrate to this country, acquire validity in some of the States of the Union, as a marriage proven by repute and by cohabitation following consent, according to the old rule of the common law. Even then, the certificate of the consul would not constitute the marriage; it would serve at most only as proof of consent, to be connected with proof of cohabitation. But the practice of celebrating such marriages would be objectionable, because it is in fraud of the local jurisdiction, and contrary to the dictates of international comity, if not to positive law.

Countries Christian or otherwise.

235. In what precedes, the inquiry has been treated as relating entirely to marriages assumed to be legalized by consuls of the United States residing

[1] Tapia, Febrero Novis, lib. i. cap. 2; Sala, Derecho real de España, lib. i. tit. 4.

officially in any of the countries of Christendom. For, in regard to States not Christian, although we make treaties with them as occasion may require, and assert in our intercourse with them all such provisions of the law of nations as are of a political nature; yet we do not suffer, as to them, that full reciprocity of municipal obligations and rights which obtains among the nations of Christendom.

Exterritoriality of Americans in China.

236. This point is determined very explicitly in our treaty with China, which, in the most unequivocal terms, places all the rights of Americans in China, whether as to person or property, under the sole jurisdiction, civil and criminal, of the authorities of the United States;[1] and Congress has made provision to meet the exigencies of the treaty in this respect.[2]

Exterritoriality of Americans in Turkey.

237. The treaty of the United States with Turkey is less explicit on this point; but it expressly ascribes to citizens of the United States exterritoriality in criminal matters,[3] provisions as to which are made by the above cited act of Congress; and as the treaty stipulates how controversies in Turkey, between citizens of the United States and subjects of the Porte, shall be adjudicated, that is, by the local authorities in presence of a representative of the United States; and as it stipulates that only a certain class of litigation shall be submitted to the Porte; and as it gives to Americans in Turkey all the rights of the most favored nation, with express reference to "the usages observed toward other Franks,"—it might be assumed that the doctrine of exterritoriality applies to Americans in Turkey, as

[1] Statutes at Large, vol. viii. p. 592.
[2] Ibid. vol. ix. p. 276.
[3] Ibid. vol. viii. p. 408.

it certainly does to subjects there of all the Christian States of Europe.[1]

238. Our treaties with the minor Mohammedan governments of Tripoli, Morocco, Muscat, and Brunai, are even less explicit than that with Turkey. Still, it may be assumed in regard to them, as a principle of the international law of the world, so far as there is any, that, unless there be express agreement to the contrary, no Christian nation admits a full reciprocity of municipal rights as between itself and any State not Christian, and therefore, that in the Mohammedan governments above enumerated, Americans possess the rights of exterritoriality which belong to all other "Franks;" that is, the races of independent Christian Europe and America.[2] A single provision of our treaty with Siam is, in the international relations of the United States, the solitary exception, it is believed, to the rule that the municipal rights of citizens of the United States are not subject to the local law of any State not Christian. We deal with such States as *governments*, and apply to them, so far as we can, the doctrines of our international law.[3] But, when we speak of the law of nations, we mean the international law of the nations of Christian Europe and America. Our treaties with nations other than these bring them practically within the pale of our public law, but it is only as to *political* rights: municipal rights remain as they were.[4]

Other Mohammedan governments.

239. The doctrine above enunciated applies to

Oriental States.

[1] Moreuil, Guide des Agents, Consulaires, tit. 2.

[2] See Ward's Law of Nations, vol. ii. passim; Kluber, Droit des Gens, s. id.; Wildman's Institutes, vol. i. p. 130.

[3] The Helena, 4 Robins, Adm. R. 5; also section 37 et seq. supra.

[4] Wheaton's Elements, p. 44; Polson's Law of Nations, p. 17; Phillimore's International Law, vol. i p. 86.

Japan; to the minor independent States of Asia and its islands, whether Mohammedan, Indo-Chinese, Malay, or what others; to the barbaric political communities of Africa; and still more to the petty insular tribes of Oceanica.

Hawaiian Islands.

240. Our treaty with the Hawaiian Islands places them on the footing of a Christian State, with the municipal rights belonging to the international law of Christendom.[1]

Contracts in States not Christian.

241. Now, in regard to the States not Christian, not only the Mohammedan States, but all the rest, the true rule appears to be, that contracts of citizens of the United States in general, and especially the contract of marriage, are not subject to the *lex loci*, but must be governed by the law of the domicile; and that, therefore, in such countries, a valid contract of marriage may be solemnized, and the contract authenticated, not only by an ambassador, but by a consul of the United States.

English authorities on the subject of marriage.

242. The English authorities come to substantially the same conclusion, for similar reasons. "Nobody can suppose," says Lord Stowell, "that while the Mogul empire existed, an Englishman (in Hindostan) was bound to consult the Koran for the celebration of his marriage." In most of the Asiatic and African countries, indeed, law is personal, not local, as it was in many parts of modern Europe in the formative period of its present organization. Hence, in British India, Hindus, Parsis, Jews, Mohammedans, Christians, all marry according to the law of their religion. The ecclesiastical law of England goes further than this, for it recognizes the marriage of Englishmen, celebrated according to the English

Ecclesiastical law in England.

[1] Statutes at Large, vol. ix. p. 977.

law, that is, by a clergyman, in British factories abroad, though situated in Christian countries, but countries of the Roman Catholic or Greek religion.[1] Indeed, in the preceding cases, as in others, the English authorities, as has already been seen, lay down the broad rule, that where, owing to religious or legal difficulties, the marriage is impossible by the *lex loci*, still a lawful marriage may be contracted, and of course authenticated, by the best means of which the circumstances admit, as in many cases of marriages contracted in the East Indies and in other foreign possessions of Great Britain.[2]

Canon law.

243. This doctrine is conformable to the canon law, which gives effect to what are called *matrimonia clandestina*, that is, marriages celebrated without observance of the religious and other formalities decreed by the Council of Trent,[3] when contracted in countries where, if those decrees were enforced, there could be no marriage.[4] In such countries, in the absence of a priest, there may be valid marriage by consent alone, conformable to the canon law as it stood before the Council of Trent, either by *verba de præsenti* or by *verba de futuro cum copulâ*, as happened *ex necessitate rei*, under the Spanish law, in remote parts of America. Of course, in circumstances like this, a marriage might be legalized by a mere military commandant.[5]

Consular marriages in Mohammedan and Pagan countries

244. This doctrine applies to the present question; for, seeing that by the common law of marriage, as now received in all, or nearly all, the States of the

[1] Ruding *v.* Smith, 2 Hagg. C. R. p. 371; Kent *v.* Burgess, 11 Simons, p. 361.

[2] See Catterall *v.* Catterall, 1 Roberts, p. 580.

[3] Cavalario, Derecho Canonico, tome ii. p. 172; Escriche, s. *v.* Matr.

[4] Walter, Derecho Ecclesiastico, s. 292, 294.

[5] Patton *v.* Phil. and New Orleans, 1 La. An. R. p. 98.

Union, marriage is a civil contract, to the validity of which clerical intervention is unnecessary,[1] it would seem to follow, at least as to all those countries, barbaric or other, in which there is in fact no *lex loci*, or those Mohammedan or Pagan countries, in which, though a local law exist, yet Americans are not subject to it, that there the personal statute accompanies them, and the contract of marriage, like any other contract, may be certified and authenticated by a consul of the United States.

Marriages in Christian countries.

245. But this doctrine does not apply to the countries of Europe, or their colonies in America or other parts of the world: in all which there is a recognized law of the place, and the rule of *locus regit actum* is in full force. There a consul of the United States has no power to celebrate marriage between either foreigners or Americans.

Consular certificates to promises of marriage.

246. It appears that, in some parts of Europe, in consequence of poverty or other impediments thrown in the way of marriage, there is great prevalence of concubinage; that the desire of lawful cohabitation enters into the inducements of emigration; and that it becomes an object, especially with emigrant females, to obtain, before leaving their country, if not a marriage, yet an assured matrimonial engagement; and that such parties are in the practice of entering into mutual promises of marriage, and procuring the contract to be certified by the consul of the United States. Such a contract would probably give rights of action to the parties in this country; it must have a tendency to promote good morals, and be particularly advantageous to the party most needing protection—that is, the female emigrant; and nothing in our own

[1] Bishop on Marriage, s. 163.

laws, or in our public policy, seems to forbid it, unless it be contrary to the law of the land in which the contract is made.

Marriages of emigrants.

247. It has been suggested[1] that there are considerations which render it desirable that consuls in Germany, especially at the points of collection or embarkation of emigrants, should possess the power to legalize matrimony. Although there is much force in what has been said on the subject, nevertheless it remains indisputable that consuls do not, in fact, possess the power; and that it cannot be imparted to them by any act of the Department of State.

Mode by which consuls could be authorized to celebrate marriages.

248. They might possibly acquire it in three ways, namely: first, by municipal act of any foreign government giving legality to a marriage within it so celebrated, in which case there would be nothing in our law, or in our public policy, to forbid a consul officiating in that relation; secondly, *perhaps*, specially by treaty, or generally by act of Congress.[2] But these are questions of political expediency, not of practical jurisprudence.

Validity of the marriage contract.

249. Upon principles of general legislation the validity of a marriage, or of any other contract, depends upon the law of the place where such marriage or other contract is entered into. If there is no special legislation to the contrary the effect of such marriage is legally the same in every country as if celebrated therein. But the validity of a marriage, and the consequences to result from it to persons or property, are very different questions, and depend

[1] Despatch (MS.) of Mr. Samuel Ricker, U. S. consular officer at Frankfort-on-the-Main; Opinions of the Attorneys General, vol. vii. p. 343.

[2] Since the delivery of this opinion a provision in relation to the rite of marriages performed *in the presence* of a consular officer has been introduced into the act of June 22, 1860. See Statutes at Large, vol. xii. p. 79.

upon different principles. It is competent for every nation to provide by its own laws that marriages, wherever they take place, unless celebrated in a particular manner or under particular circumstances, shall be ineffectual to secure to parties claiming under them the rights they would have been entitled to had no such disabling legislation existed.

250. This is a subject of internal policy wholly dependent upon local considerations. But the validity of the marriage itself is quite another matter, which cannot justly be thus dealt with. Not only is it binding upon the parties *in foro conscientiæ*, but it is beyond the reach of any rightful legislation.

Consular authentication of marriages.

251. The provision of the thirty-first section of the act of Congress of June twenty-second, eighteen hundred and sixty, which declares that marriages celebrated in the presence of any consular officer in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall have the same force and effect, and shall be valid to all intents and purposes, as if the said marriage had been solemnized within the United States, specially provides for the *presence* of a consular officer upon such an occasion. And the provision is no doubt a wise one, not only because it furnishes security against fraud, but because it renders more easy the authentication of such marriages in the United States. It does not necessarily withdraw the celebration of such marriages from the authority of the country in which they take place, or give power to the consular officer himself to perform the ceremony in Christian countries. It will be evident from what has been stated that, in order to preserve all the legal rights of the parties to a contract of mar-

riage, it is expedient that the marriage ceremony should, if possible, be performed in the manner required by the law of the place of contract.[1]

Objections answered.

252. It is suggested that no notice has been taken of "the difference between consuls who are subjects of the State where they reside, and those who are not such subjects." Undoubtedly such difference exists, since a subject cannot escape his local obligations by means of an appointment as foreign consul; but that is immaterial to the question, because the consul does not, by reason of his being a foreigner, become therefore authorized to solemnize marriage. If, indeed, being a subject of the State, he have power as a local magistrate to solemnize marriage, or, being a foreigner, he have the same power as a clergyman, he may do it; but, in either case, not in his capacity of consul.

253. Another point of consideration is further suggested, namely, "the difference between consuls residing in a State where there is a minister representing the government by whom they were appointed, and consuls residing in a State where there is no minister;" and the peculiar importance of this point in Germany has been mentioned. It is true, that in a country where his government has no minister, the duties of the consul expand, of necessity, into a larger field, because he will be called upon to communicate with his own government, or with that near which he resides, in matters which would otherwise devolve on a minister; but that circumstance does not cure his legal incapacity *as consul* to solemnize marriage in Christian countries without authority of the local government.[2]

[1] Statutes at Large, vol. xii. p. 79; Instructions to Mr. Fay, November 12, 1860, MS.

[2] Opinions of the Attorneys General, vol. vii. p. 343.

CHAPTER IX.

THE DUTIES OF A CONSULAR OFFICER AFTER RECEIVING NOTICE OF HIS APPOINTMENT.

Bonds to be given by consular officers, and conditions thereof.

254. As soon as a consul general, consul, or commercial agent is officially notified of his appointment, he must, without unnecessary delay, before he receives his commission or enters upon the duties of his office, take the oath of office and allegiance, and also enter into a bond with the United States, with such sureties (who shall be permanent residents of the United States) as shall be approved by the Secretary of State, in a penal sum of not less than one thousand nor more than ten thousand dollars, and in such form as the President shall prescribe, conditioned for the true and faithful accounting for, paying over, and delivering up of all moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person to his use as such consul general, consul, or commercial agent, under any law now or hereafter enacted, and for the true and faithful performance of all other duties now or hereafter lawfully imposed upon him as such consul general, consul, or commercial agent; and in the cases of consuls general, consuls, and commercial agents embraced in schedule B of the act of August 18, 1856, such bond must contain, by way of further condition, the stipulation required by section five of the said act, namely, that they shall not, while holding their

offices, be interested in or transact any business as merchants, factors, brokers, or other traders to, from, or within the ports, places, or limits of their consulate or commercial agencies, directly or indirectly, either in their own name or in the name or through the agency of any persons.[1] In the case of consuls included in schedules B or C, there is the further condition that all official fees shall be accounted for and paid to the United States.

255. He must at the same time inform the Department of the place of his birth and the State of which he was a citizen at the time of his appointment.

Formalities to be observed in the execution of bonds.

256. There are certain formalities which must be strictly observed in the execution of the bond.

1. The Christian names must be written in the body of the bond in full, and so signed to the bond.

2. The places of residence of the principal and the sureties must also be stated in the bond or in the certificate of the District Attorney.

3. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4. The United States Attorney of the district in which the sureties reside must certify that they are severally sufficient to pay the penalty of the bond, and are citizens of the United States.

5. The date of the execution of the bond must be inserted.

257. If the consulate is one of those included in schedule B of the diplomatic and consular act of August eighteen, eighteen hundred and fifty-six, the bond must be executed in the manner prescribed by Form No. 2. If the consulate is included in schedule C the bond must be executed agreeably to Form No. 3.

[1] Statutes at Large, vol. xi. pp. 56, 57.

258. If the consulate is not included either in schedule B or C, the bond must be executed in accordance with Form No. 4.

Mode of proceeding if the consular officer is not in the United States.

259. If the consular officer be not in the United States at the time of his appointment, as soon as he is apprised of the same he must sign, seal, and transmit to the United States, by the most expeditious conveyance, a bond like the one described in section 254, to be signed and sealed by two sureties, who are permanent residents of the United States, and whose competency must be certified as above mentioned, and the instrument then sent to the Secretary of State for his approval; after which it is deposited with the Secretary of the Treasury.

Proof of citizenship required.

260. If he be a naturalized citizen, he must transmit, with his bond, an attested copy of his certificate of naturalization.

Commission and passport of a consular officer, and how and when transmitted.

261. When the bond of the consular officer has been approved, and a certified copy of the oath of office and allegiance received at the Department of State, his commission is immediately sent to the United States legation, if there be one in the country to which his consular district belongs; otherwise to the consul himself. His consular passport is then forwarded to him, the receipt of which he must immediately acknowledge, stating at the same time, the date of receipt.

Notice of time and place of departure to be given.

262. After receiving his passport, he is expected to depart, with all convenient despatch, for his post; giving notice to the Department of the time and place of his departure, and of the vessel in which he embarks.

CHAPTER X.

CONSULS GENERAL.

263. CONSULS general are governed like other consular officers in the discharge of their official duties by the laws of the United States and the consular regulations prescribed by the President. Inasmuch, however, as the duties which consuls general are required to perform are often highly important and involve much responsibility, they receive from time to time, from the Department of State, as occasion may demand, specific instructions for their information and guidance.

Consuls general to be guided by the general instructions, and by specific instructions.

264. Consular officers residing within the jurisdiction of a consul general are required to transmit their official correspondence and reports through him, unless otherwise instructed, and in cases of emergency when the delay of communicating with the Department would be prejudicial to the public interests.

Transmission of correspondence.

265. Consuls general are expected, when requested by a consular officer, to give their advice and counsel to him in all cases of difficulty, and, whenever the occasion may justify it, upon any subject affecting the interests of their own government or their countrymen.

Consuls general to give advice to consular officers.

266. The correspondence of the Department of State with consular officers is not unfrequently, as with the consuls in the Island of Cuba, conducted through the medium of the Consul General of the

United States, if there be such an officer residing in the country.

Appointment of consular agents.

267. Whenever the interests of the United States require the appointment of a consular agent at any port or place within a consular district, the consul general of the United States, if there be such an officer in the country, is required to communicate to the Department of State the name of the individual whom the consul recommends for the appointment, with the consul's reasons therefor, and also, if it be a newly created agency, with the reasons for the establishment thereof, together with his own views on the subject. All the papers relating to the case must likewise be transmitted to the Department.

268. Whenever a consular agency is nearer to the official residence of the consul general than to that of any consul of the United States, the consular agent is nominated by the consul general and is directly responsible to him. Sometimes he is specially authorized to appoint agents in any part of his consular jurisdiction.

Mode of communicating with a consular agent.

269. Whenever a consul general has occasion to communicate with a consular agent on official business, he will do so through the medium of the consul to whom such agent is responsible.

All consuls general prohibited from trading, etc.

All consuls general, whether specified in schedule B or appointed in accordance with the fourth section of the act of August, 18, 1856, are subject to the prohibition in regard to trade mentioned in the fifth section of the same act.

Office of consul general.

270. The office of consul general may be given, as a mere titular designation, to imply rank; but it more properly signifies an office with special functions, well defined by the law of nations and public

usage. Such an officer possesses utility and particular application in foreign countries of extensive but definite circumscription in which there is no proper diplomatic representative of the government, such as the several great European colonies, or other governments of that order, in Asia, Africa, and America. In the foreign dependencies of European powers, many of which are in themselves great States, with all the mechanism of local authority, and in some cases enjoying semi-independence under the administration of a governor, a captain general, or a pacha, it often becomes necessary that some consular person should have power to communicate with the supreme colonial or feudatory chief, in behalf of his colleagues and his countrymen; and on the consul residing at the seat of such government will naturally devolve the functions, if not the title, of consul general. In Cuba, for instance, it is understood to be a regulation of the captain general, that all official consular correspondence with him shall be conducted through the medium of the consul general residing at Havana, and this regulation, all the consuls of the United States in Cuba, are specially instructed to observe.[1]

Consuls not public ministers.

271. Neither consuls nor consuls general are public ministers.[2] Whatever protection they may be entitled to in the discharge of their official duties, and whatever special privileges may be conferred upon them by the local laws and usages, or by international com-

[1] Opinion of Attorney General, June 2, 1855; De Cussy, Règlements Consulaires, p. 70; Moreuil, Agents Consulaires, p. 18; De Clercq, Guide des Consulats, p. 28; Instructions of Mr. Everett to Mr. Sharkey, and also to Mr. Barringer, Executive Document, House of Representatives, No. 86, 33d Congress, 1st sess. pp. 46, 81, 82.

[2] Halleck's International Law, pp. 241–249.

pact, they are not entitled, by the general law of nations, to the peculiar immunities of ambassadors. No State is bound to permit the residence of foreign consular officers, unless it has stipulated by convention or treaty to receive them.[1] Sometimes, as in the dependencies of Spain, both in the Eastern and Western hemispheres, the ports are indicated by the sovereign authority at which alone consuls or consuls general are permitted to reside.

272. Sometimes consuls general and consuls are provided with special letters of credence, and they are then regarded as possessing certain diplomatic privileges. The only instances of this kind among the consular officers of the United States are the consul general in Egypt, and the consuls in Tunis, Tangier, and Tripoli.

All consuls general included in schedules B and C are required to execute a bond as prescribed by Form No. 2.[2] Consuls general not classed in those schedules are required to execute a similar bond excepting only the condition in regard to the delivering up of the official fees.

[1] Wheaton's Elements of International Law, p. 304.
[2] Statutes at Large, vol. xi. p. 55.

CHAPTER XI.

CONSULS AND OTHER CONSULAR OFFICERS.[1]

273. CONSULS general, consuls, and commercial agents, are deemed and taken to denote full, principal, and permanent consular officers, as distinguished from subordinates and substitutes.[2]

Principal consular officers defined.

274. The first class of consular officers are those consuls general, consuls, and commercial agents, who are appointed to the ports and places designated in schedule B section three of the act regulating the diplomatic and consular systems of the United States,[3] who, while holding the consular office, are prohibited by section five of the said act from being interested in, or from transacting any business as merchants, factors, brokers, or other traders, or as clerks or other agents for any such persons, to, from, or within the port, place, or limits of their consulates or commercial agencies, directly or indirectly, either in their own names or through the agency of any other persons.

Consular officers of the first class prohibited from being interested in or from transacting business.

275. Consuls of this class are entitled to compensation for their services, respectively, at the rates specified in said schedule B.

Compensation.

[1] See Halleck's International Law, chap. x. "Of Consuls and Commercial Agents."

[1] Statutes of the U. S. vol. xi. p. 64. Act of August 18, 1856, sec. 31.

[2] Idem. vol. xi. pp. 52–65; Halleck, p. 241.

Consular officers of the second class.

276. The second class of consular officers are those consuls and commercial agents appointed to the ports and places designated in schedule C of the same section.

Compensation.

277. Consular officers of this class are entitled to compensation for their services, respectively, at the rates per annum which are specified in schedule C, and are not prohibited from being interested in or transacting business, but are required to account for all official fees collected by them to the Secretary of the Treasury and hold the same subject to his draft or other directions.

Consular officers of the third class and their compensation.

278. The third class of consular officers are those consuls general, consuls, and commercial agents, who are not embraced in schedules B and C, and who are entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of the act of August eighteen, eighteen hundred and fifty-six.

Consular officers subject to the prohibition as regards business.

279. The President is authorized by section fifteen of the said act to subject any consul or commercial agent contemplated by section four, and any vice consul, vice commercial agent, deputy consul, or consular agent, to the prohibition as to trade contained in section five, and to require from him such bond as is provided for by section thirteen, whenever he shall think the public interests will be promoted thereby.

CHAPTER XII.

DEPUTY CONSULS AND VICE CONSULS.

Functions of a deputy consul.

280. A DEPUTY consul is a consular officer subordinate to a consul, exercising consular powers and performing the duties within the limits of a consulate, at the same port or place at which his principal resides.[1] He is required to perform such duties as may be assigned to him by the principal consular officer. The appointment of a deputy consul is of unfrequent occurrence, and he can act only in case of the sickness of a consul, or of his inability to discharge with promptness such consular business as requires the personal attention of a principal consular officer.

Deputy consuls, when to be appointed.

Mode of appointment.

281. The nomination of a deputy consul must be communicated to the Department of State, accompanied by a statement of the reasons which require the appointment, and proof of the character and ability of the nominee; if possible he should be a citizen of the United States. His appointment does not require a nomination to the Senate.

Local authorities to be apprised of the appointment.

282. As soon as the consul receives from the Department a confirmation of the appointment, he should apprise the local authorities of the fact, and request the recognition of the deputy consul in his official character. Without such recognition it would be

[1] Opinions of the Attorneys General, vol. vii. p. 262.
[2] Idem. p. 247.

manifestly improper for a deputy consul to communicate officially with the authorities of the place.

Official papers to be signed by the consul.

283. In all cases it is desirable that official papers requiring consular authentication should be signed by the consul himself.

Responsibility of consular officers for the acts of their agents.

284. Every consular officer is held by the Department responsible for the official acts of his agents, whatever may be their designation; and he is expected to exercise over them such control as to prevent them from committing any acts of inpropriety, dishonorable to the American name and character.

Appointment of vice consul or vice commercial agent.

285. A vice consul general, vice consul, or vice commercial agent is an officer who is substituted temporarily to fill the places respectively of a consul general, consul, or commercial agent, in the absence of either of these officers. He is appointed in the same manner and subject to the same restrictions as a deputy consul. But in case of any sudden emergency requiring the services of a deputy consul or vice consul, where the interests of the United States or its citizens would suffer from delay, such deputy or vice consul may temporarily discharge consular duties prior to the confirmation of the appointment by the Department of State. Whenever such an emergency occurs it should be communicated without delay to the Secretary of State, and the sanction of the appointment obtained from the Department.

Compensation of a subordinate consular officer.

286. The salary of a vice consul general, deputy consul, vice consul or vice commercial agent, is provided by the principal consular officer under whom the appointment is held from his own compensation, subject to the sanction of the President communicated through the Department of State.

287. No draft should be drawn by a subordinate consular officer unless the Department, on which it is drawn, has been previously apprised by the principal consular officer that such authority has been given; otherwise the draft may be protested. Immediately after receiving his appointment every vice consul should transmit his official bond as required by the sixth section of the act of April fourteen, seventeen hundred and ninety-two.[1]

[1] Statutes at Large, vol. i. p. 256.

CHAPTER XIII.

COMMERCIAL AGENTS.[1]

Duties of commercial agents.

288. THE official duties of United States commercial agents resemble, in most respects, those of United States consuls. Similar instructions are given to both, subject to such modifications as are rendered necessary by the local laws or the customs of the places where these officers respectively reside.

Mode of appointment.

289. Commercial agents are not, like consuls, appointed by the President, by and with the advice and consent of the Senate; nor do they receive a commission bearing the seal of the United States. They are simply executive agents sent abroad for the promotion and advancement of commercial interests, selected by the Department of State, corresponding with, and instructed and controlled by it; and they receive a certificate of appointment bearing the seal of the Department. Their appointment remains unchangeably one of the organic powers of the Executive, derived from the Constitution and not from an act of Congress. Like other executive officers connected with the Department, they are amenable to it, and subject to regulations issued from it.[2]

Recognition by local authorities not absolutely necessary.

290. Their recognition by the authorities of the place where they reside, although important, in affording facilities to the proper performance of their

[1] See Halleck's International Law, chap. x. pp. 239–269, "Of Consuls and Commercial Agents."

[2] Opinions of the Attorneys General, vol. vii. p. 249.

duties, is not always necessary. In some instances, though very rarely, these agencies are conferred upon persons who are directed to keep secret the trust confided to them. Appointments of this character do not necessarily require a recognition on the part of the government of the country, or of the authorities of the place where a commercial agent resides, though such recognition is always desirable. Commercial agents are sometimes appointed, rather than consuls, for the sole purpose of avoiding the necessity of recognizing an authority *de facto*, by requesting an exequatur, as application is rarely made by the government for exequaturs for commercial agents, except for such as reside in the dependencies of Great Britain.

Mode of application for an exequatur.

291. Should an official recognition by the supreme authority of the country in which a commercial agent resides, or of which his district is a dependency, be thought necessary for the interests of the United States, the commercial agent will request the Department of State to apply for an exequatur. In no case will a commercial agent make such application himself to the foreign government.

A commercial agent prohibited from applying for an exequatur.

Restrictions imposed on commercial agents.

292. Commercial agents, like other consular officers, are restricted from performing any official acts which are forbidden or not tolerated by the government of the place at which they are appointed, and which have reference solely to such government and the citizens or subjects owing it allegiance.[1]

[1] Manuscript Instructions, September 6, 1854.

CHAPTER XIV.

CONSULAR AGENTS.

Consular agents defined.

293. CONSULAR agents are defined, by section thirty-one of the act regulating the diplomatic and consular systems of the United States, to be consular officers, subordinate to full, principal, and permanent consular officers, exercising powers and performing duties within the limits of consulates or commercial agencies, respectively, at ports or places different from those at which such principals respectively reside.[1]

Where consular agents are to be appointed.

294. When there are, in consular districts, several sea-ports frequented by merchant vessels of the United States, or places where American interests are concerned, or to which American travellers resort, consular agents should be appointed at such ports or places, with the sanction of the President. In selecting ports or places for the establishment of consular agencies, reference should be had to the convenience and economy of American citizens and other parties most likely to transact business at such agencies.

Consular agents to be citizens of the United States.

295. In all cases where it is practicable, consular agents should be citizens of the United States, and none others should be recommended for appointment except in cases of absolute necessity.

Compensation of consular agents.

296. Every consular agent is entitled, as compensation for his services, to such fees as he may lawfully

[1] Statutes at Large, vol. xi. p. 64; also Opinions of the Attorneys General, vol. vii. pp. 246, 247, 262, 276.

collect in pursuance of the provisions of the act regulating the diplomatic and consular systems of the United States, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which a consular agent shall be appointed, is entitled to the residue, if any, in addition to any other compensation allowed him by section fifteen of the act above mentioned for his services therein.

Responsibility of consular agents.

297. Consular agents are subject, like other consular officers, to the provisions of law and the instructions of the Department.

Correspondence of consular agents.

298. On all matters relating to the business of their agencies, they are required to communicate with the consular officers by whom they are respectively appointed, and to whom they are responsible; such of their communications as are considered of sufficient importance, and in all cases their quarterly reports and returns, are to be transmitted by the said consular officers to the Department of State.

Termination of the office of consular agent in certain contingencies.

299. No consular agent is permitted to perform any official act after the death, recall, resignation, or withdrawal from office, of the consular officer by whom he was appointed; his own power to act officially being annulled by either of the events here mentioned.

Sub-agents not to be appointed.

300. No consular agent or vice commercial agent is allowed to appoint a sub-agent.

Names of agents to be reported.

301. As soon as possible after having received his exequatur and entered upon his duties, every newly appointed consul is expected to report to the Secretary of State for confirmation the names of his consular agents, and, invariably, at the close of each year to transmit a full list of all his subordinates.

CHAPTER XV.

CONSULAR CLERKS.

American clerks to be employed in preference to aliens.

302. WHENEVER at any consulate or commercial agency it becomes necessary to employ consular clerks, consular officers are expected, where it is practicable, to receive into their service those individuals only who owe allegiance to the government of the United States.

303. Inconveniences may result from this instruction where the English language is not that of the country in which the consulate is situated; but if consular officers are not acquainted with such language at the time of receiving their appointments, it is expected that they will soon acquire a sufficient knowledge of it for the management of their official business.

304. There are many Americans citizens, at home and abroad, who are anxious to acquire a knowledge of the languages of Europe—a knowledge which would be valuable to the government and to the people of the United States; and it is recommended to consular officers, so far as it is practicable, to procure such persons as assistants. Should circumstances prevent a strict compliance with this instruction, the fact will be reported to the Department and the reasons thereof explained.

305. At the close of every year, every consular

officer is required to transmit to the Department, according to the prescribed form, (No. 1,) a list of all persons who may be acting within his consular district and under his jurisdiction, either as deputy or vice consuls, consular agents, clerks, or in any other similar capacity, stating in such returns the name of the individuals, their place of birth, the country to which they owe allegiance, their rank, date of nomination, and the date of the approval thereof by the Department. No provision is made by law for the compensation of consular clerks; if such officers are appointed, provision must be made for their salaries by the consuls by whom they are respectively appointed, and to whom they are responsible.

Names of all subordinate consular officers to be transmitted annually to the Department.

CHAPTER XVI.

MARSHALS OF CONSULAR COURTS.

306. It is provided by the twenty-fifth section of the act of Congress of June twenty-second, eighteen hundred and sixty, that the President be authorized to appoint marshals for such of the consular courts in the countries designated therein, as he may think proper, not to exceed seven in number, namely, one in Japan, four in China, one in Siam, and one in Turkey, who shall each receive an annual salary of one thousand dollars per annum, in addition to the fees allowed by the regulations of the said ministers, respectively, in the said countries; and it is made the duty of the said marshals, respectively, to execute all process issued by the minister of the United States in the said countries, respectively, or by the consul at the port at which they reside, and to make due return of the same to the officer by whom the same was issued, and to conform, in all respects, to the regulations prescribed by the said ministers, respectively, in regard to their duties. The marshals are required to give bond for the faithful performance of the duties of the office, before entering upon their official duties, which bond must be in a penal sum not to exceed ten thousand dollars, with two sureties to be approved by the Secretary of State of the United States; the bond is to be transmitted to the

Salary.

Fees.

Duties of marshals.

Bonds to be given.

Penalty.

Secretary of the Treasury, and a certified copy lodged in the office of the minister. And in case any person aggrieved by the misconduct of any of the marshals should desire to bring suit upon any of the said bonds, it is made the duty of the Secretary of the Treasury, or the minister having custody of a copy of the same, to furnish the person so applying with a certified copy thereof, upon which copy, so furnished and certified, suit may be brought and prosecuted with the same effect as could be done upon the original. Upon a plea of *non est factum* verified upon oath, or any other good cause shown, the court or the consul or minister trying the cause may require the original to be produced; and when so required, it is the duty of the Secretary of the Treasury to forward the original bond to the court or consul or minister requiring it. Before a copy of any such bond shall be furnished for suit, it is the duty of the Secretary of the Treasury, or the minister to whom the application is made, to require *prima facie* proof, to be judged of by the Secretary of the Treasury or the minister having charge of the copy, that there is probable cause of action against the marshal making the bond. All rules, orders, writs, and processes of every kind which are intended to operate or be enforced against any of the said marshals, in any of the countries named in this act, must be directed to and executed by such person as may be appointed for that purpose by the minister or consul issuing the same.

Disposition of bond.

Suits upon bonds.

Production of bond.

Probable cause of action to be shown.

Appointment of special marshals.

307. The marshals of the United States consular courts are not like consuls, entitled specifically to compensation for a certain period while receiving instructions, nor while making the transit to and from their respective posts of duty. In the absence of any

Compensation of marshals.

statutory provision fixing the time when the salaries of public officers begin, the general rule adopted and enforced in the accounting bureaus, has been that such officers are entitled to pay when they have actually entered upon duty. This rule has usually been applied to Heads of Bureaus, Marshals, District Attorneys, Land Officers, and others.[1]

At what time compensation commences.

308. The date of the commencement of receiving compensation is not necessarily that of their appointment, but that at which they begin to devote themselves to the public service, that time being fixed by acts performed, as by leaving home to come to the seat of Government for instructions, or by an understanding between them and the Head of the Department. It may also be indicated, in the case of the marshal of a consular court, by the day on which he takes the oath of office and gives the bond for faithful performance of the duties required by law. Then, and not before, he may be said to be in office, and certainly before these essential formalities are complied with his salary does not commence. Whether it begins when they are completed will depend on the question whether from that time he devotes himself to the public service. In legal presumption he does; but that presumption is not conclusive; and if the fact be otherwise, the accounting officers, if it appear that the time when a marshal takes the oath of office and files his official bond, is not the time when his official service begins, should accept the latter, as the date from which his salary commences.[2] From what has been said it will be seen that it is both the interest and duty of a marshal as soon as he receives

[1] Opinions of the Attorneys General, vol. vii. p. 307.

[2] Opinion of Attorney General of the United States, May 12, 1862. MS.

official notice of his appointment, to take the oath of office and allegiance, (see Form No. 131,) and transmit his bond, (see Form No. 133,) duly executed, to the Secretary of State. If he is a naturalized citizen of the United States he must transmit, at the same time, a certified copy of his certificate of naturalization. He will also mention the place of his birth and the name of the State from which he is appointed.

Bond of marshal.

309. The bond must be executed both by principal and sureties before a United States District Court Judge, Attorney, Marshal, or Minister of the United States. The sureties must be approved by the officer before whom the bond is executed; and it should appear on its face, or be certified by the said officer, that they are inhabitants and freeholders of the United States, resident therein; the places of their residence should also be specified.

Transmission of commission and passport.

310. Upon the receipt at the Department of the oath and bond, executed in accordance with the foregoing directions, the passport and commission of the marshal are sent to him, and he is expected to proceed to his post without delay.

Marshal to report to consul.

311. Marshals are required to report for duty to the consul or vice consul to whose instructions they are respectively subject, agreeably to the provisions of the twenty-fifth section of the act of June twenty-second, eighteen hundred and sixty. Should they have occasion thereafter to communicate with the Department, they must do so through the medium of the consular officer to whom they are subordinate.

Marshal's quarterly report.

312. Marshals are required to transmit, at the close of each quarter, to the Secretary of State, a report in conformity with Form No. 132, showing the nature

of each case determined in the consular court, the proceedings in connection therewith, and what disposition has been made of the fines and fees. They will transmit also, at the same time, to the Fifth Auditor for adjustment, their account for compensation.

CHAPTER XVII.

FORMALITIES TO BE OBSERVED BY A CONSUL GENERAL OR CONSUL, AFTER HIS ARRIVAL AT HIS POST.

Information of his arrival to be given by a consular officer to the legation.

313. AFTER the arrival of a consul general or consul at his post, he is required to give information thereof to the United States legation, if there be one accredited to the government of the country in which his consulate is situated, and he should also inform the Department of State of the exact date of his arrival, in order that his transit account may be properly adjusted.

Exequatur, how obtained.

On the receipt of the exequatur, publication thereof to be made.

314. It is the practice of the Department to send the consular commission to the legation, with instructions to the diplomatic agent to apply for an exequatur, so that the consul general or consul may be officially recognized and enabled to discharge without interruption his consular duties. If there be no legation of the United States in the country, the commission will be sent to the consul himself, who should, without delay, transmit it to the proper department, and request an exequatur. In either case, he will inform, in respectful terms, the authorities of the port or district to which he is sent of his appointment; and if he can obtain their consent to his acting as commercial agent until the receipt of his exequatur, he is authorized so to do. As soon as his exequatur is received, notice of it should be made public in the manner usual in the country.

Privileges accorded by a consular exequatur.

315. His commission and exequatur will enable him to exercise and enjoy all the rights, exemptions, privileges, and powers to the same appertaining, and such as are usually granted to consuls in the country in which the consulate is situated; and he should seek for none other without authority from the Department of State.

Application for archives to be made, and inventory required.

316. Having obtained either his exequatur, or permission to act as commercial agent, he must then apply to the person having charge of the consular seal and the archives of the consulate, for their delivery to him; and having made an inventory, jointly with his predecessor if present, of the papers, books, and other effects, he must transmit a copy of such inventory, properly dated, signed by both parties, or, in the absence of his predecessor, by himself, to the Department. He will likewise transmit, both to the Secretary of State and to the Secretary of the Treasury, a certificate, also dated, of this fact, (Form No. 134,) to be executed jointly by himself and the outgoing consular officer, if present; he may then take charge of the seal, archives, and effects of the consulate.

Disposition of public funds.

317. If there are any public funds in the hands of his predecessor, he will take charge of them, unless they are the proceeds of the effects of an American citizen who died intestate more than a year previous, and which, according to section two of the act of April 14, 1792,[1] should have been remitted to the Treasury of the United States; in which case the consul who received the same should make the remittance.

Public notice to be given.

318. Having entered upon the duties of his office,

[1] Statutes at Large, vol. i. p. 255.

the consul must immediately give notice thereof to the Department of State, to the minister of the United States in the country in which he is appointed, and to the consuls of the United States residing in the same country, and the consuls of other countries in the neighboring ports.

Regulations in regard to United States arms and flag.

319. The arms of the United States should be placed over the entrance of the consulate, if permitted by the laws of the country; and, wherever such custom prevails, the national flag should be hoisted daily for his protection, and as the emblem of his authority. The flag is to be unfurled on the national holidays of the United States, on days of public rejoicing in commemoration of great events, and on public anniversaries and festivals of the country wherein the consulate is situated. It is to be raised and lowered according to custom as a salute on proper occasions, and kept one day at half-mast upon the death of any high public officer at home, American ship-master at the port, or distinguished individual within the district or country where the consular officer resides.

Knowledge of treaties, conventions, tariffs, etc., required.

320. It is his duty immediately to become conversant with all treaties and conventions existing between the United States and the country wherein he resides, and especially with their respective tariffs and all enactments relating to trade; also with the municipal laws and local regulations, and, as far as possible, with the language, history, statutes, manners, and customs of the country in which his consulate is situated.

Absence forbidden.

321. No consular officer must be absent from his post, or the performance of his duties, for a longer period than ten days at any one time, without the

permission previously obtained of the President, through the medium of the Department of State; and no compensation is allowed for the time of any such absence, except in cases of sickness, and where permission has been granted through an application to the Department of State.[1] Whenever a consular officer makes application to the Department for leave of absence, he should, at the same time, state the name of the individual whom he nominates as vice consul during his proposed absence; the name of this individual must have first been presented to the Minister of the United States and received his sanction. After having obtained leave from the Department, the consular officer must apprise the Legation of the United States of that fact, and also of the day of his departure from his post.

Office hours and location of office.

322. Every consular officer is required to have his office in as central a position as can be conveniently procured, and to keep it open daily during the usual business hours of the place—Sundays, holidays, and anniversaries excepted.

Consular officers.

323. The offices of consular officers of the first class, named in schedule B, who are not permitted to engage in private business, must not only be in a central and respectable location, but must also be used exclusively for the business of the consular office. Any violation of this regulation subjects the officer to the loss of the allowance for rent, which the President, through the medium of the Department of State, is authorized to permit, whenever he shall think there is sufficient reason therefor.[2]

[1] Statutes of the United States, vol. xi. p. 56; Opinion of Attorney General Black, MS., Sept. 21, 1857.

[2] Statutes at Large, vol. xi. p. 60.

CHAPTER XVIII.

INSTRUCTIONS RESPECTING THE CORRESPONDENCE OF A CONSULAR OFFICER WITH THE DEPARTMENT OF STATE.

Style of consular despatches.

324. ALL communications addressed to the Department, as well as enclosures, must be written on cap paper on whole sheets, in a fair, round hand, leaving an inch margin on each side of the page, and the distance between the written lines must correspond with that of the ink lines which are sent to every consular officer with the notice of his appointment. (Form No. 135.) Consuls will instruct their agents to observe the same form.

Agents' despatches.

Despatches to be numbered, and confined to one subject.

325. Despatches to the Department must be consecutively numbered, both at the top of the first page and on the endorsement, beginning with the first despatch of the consul after receiving notice of his appointment, and continuing in order until he retires from office. Each despatch is, as far as possible, to be confined to one subject. In transmitting enclosures in despatches, the contents of those enclosures are to be briefly stated in the body of the despatch, and attention is to be directed to such points contained in them as may appear to be particularly deserving of notice; this regulation should be carefully observed. The despatches addressed to different Departments, or to the Fifth Auditor, or Comptroller, must be regarded as forming distinct and separate series, each of which is to be numbered consecutively.

Enclosures in a foreign language to be translated.

326. Should such enclosures be in any foreign language, exact copies of the originals are to be forwarded, and also translations of them if convenient.

Enclosures to be numbered.

327. Wherever it is mentioned in a despatch that a paper is enclosed, a line is to be made in the margin, (thus, No. 1.) and above such line is to be placed the number corresponding to the number of the enclosure.

328. Each series of enclosures is to be numbered anew in each despatch, commencing with No. 1; and when there are more enclosures than one in a despatch, each enclosure is to be numbered in the order in which it is to be read.

Printed enclosures.

329. When printed papers are sent as enclosures in despatches, two copies, if they can be conveniently obtained, should be forwarded; when these enclosures relate to regulations of trade or changes in tariffs, two copies at least should always be sent.

Endorsements upon despatches and enclosures.

330. All despatches, and the enclosures, are to be endorsed according to the prescribed forms, (No. 5 and No. 6.) The endorsement of the despatch must state the place where, and the time when it was written, in the first line; the name of the writer in the second; the number of the despatch in the third; the number of its enclosures, if any, in the fourth; the word "Received" in the fifth, with a blank after it for the date of the day on which the said despatch shall be received; and in the sixth and following lines, a short abstract of its contents. The endorsement of the enclosure must state what the enclosure is, (whether it be a letter or any other document,) its date and its number; and it must also contain a reference to the number of the despatch in which it is transmitted.

331. The division of the contents of a despatch into paragraphs, each treating of a separate branch of the subject thereof, so far as classification may be convenient, and analysis, by marginal annotation, of each paragraph, naturally facilitate the proper disposition of consular communications, and the more prompt attention to the requests of consular officers. The marginal notes should *invariably* be placed upon the outer side of the paper.

Despatches to be divided into paragraphs, according to subdivisions of subject.

332. In making copies of correspondence, the blank space on a leaf at the end of one communication should not be used to commence another. Each document should be on its own sheet, or, if brief, on its own half sheet.

Instructions respecting copies.

333. All despatches are to be folded like those sent from this Department. Gum, sealing-wax, or wafers are not to be put upon the despatches or the enclosures, but only on the envelopes which cover them. Whenever despatches are to be transmitted through regions in or near the torrid zone sealing wax is not to be used. Envelopes containing consular despatches are to be addressed in a manner similar to form No. 7.

Folding and sealing of despatches.

334. Despatches are never to be antedated; and when returns which are ordered to be transmitted "quarterly," "half-yearly," or "annually," cannot be completed on the last day of the quarter, half-year, or year, as the case may be, for want of sufficient information on that date, or for any other adequate reason, the returns are to be made up to that date as soon as practicable thereafter.

Despatches not to be antedated.

335. Returns ordered to be sent "quarterly" are to be made up to the 31st of March, 30th of June, 30th of September, and 31st of December. Those

When returns are to be made up.

ordered to be made up half-yearly are to be made up to the 30th of June and 31st of December; and those ordered to be "annually transmitted" are to be made up to the 31st of December.

Mode of transmitting returns.

336. Returns ordered by special instruction, or enactment, or by different sections of the General Instructions, are to be sent as enclosures in distinct despatches, each despatch relating solely to the return as ordered to be made in such instruction, enactment, or section.

Annual return.

337. A return must be rendered on the 31st of December of each year, or as soon after as possible, of the number and dates of the despatches written during the year, with a brief analysis of each, and transmitted by the earliest conveyance, and, if practicable, before the consul writes any despatches in the ensuing year.

Officers with whom consular officers are to correspond.

338. A consular officer will hold correspondence on public matters, independently of that which his official duties require him to conduct with the local authorities and individuals of the place where he resides and officers or others employed in our commercial marine, only with the Secretary and Assistant Secretary of State, the Secretary of the Treasury, the Comptroller, the Fifth Auditor, the Register of the Treasury, Attorneys of the United States, the United States legation in the country where he resides, other consular officers, and with naval or military officers in the service of the United States who may be employed in the neighborhood, and to whom it may be necessary to communicate immediately any event of public interest.

Forms for commercial returns and statement of fees.

339. Consuls are provided by the Department with printed forms, for their guidance in making the cus-

tomary commercial and other returns and statement of fees whenever it is practicable.

340. The convenience of the Department will be greatly promoted by a careful attention on the part of all consular officers to the foregoing instructions, and a strict compliance with them will be expected.

Instructions to be observed.

CHAPTER XIX.

COMPENSATION OF CONSULAR OFFICERS.

Compensation of consular officers named in schedules B and C.

341. It is provided by the third section of the act regulating the diplomatic and consular systems of the United States,[1] that consuls general, consuls, and commercial agents, appointed to the ports and places specified in schedules B and C of the same section of the act, shall be entitled to compensation for their services, respectively, at the rates per annum therein specified. It is further provided that if the President shall think proper to appoint a consul to any port or place named in the said schedules B and C for a commercial agent, instead of such commercial agent, or *vice versa*, and an appointment shall be made accordingly, the compensation for such consular officer (without regard to title) shall be the same in any such case as that fixed for such port or place in the schedule embracing the same; and if he shall think the public interests will be subserved by appointing to any such port or place a consul general instead of a consul or commercial agent, and an appointment shall be made accordingly, the compensation for such consul general shall be the same as that fixed for such port or place in the schedule embracing the same.[2]

[1] Statutes at Large, vol. xi. p. 73.

[2] See schedules B and C of the diplomatic and consular act for the compensation provided for the several consulates of the United States,

342. It is provided by the fourth section of the same act, that consuls general, consuls, and commercial agents, not embraced in schedules B and C, shall be entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of this act, respectively.

Compensation of consular officers who are not embraced in schedules B and C.

343. The eighth section of the same act provides, that no consul general, consul, commercial agent, or consular pupil,[1] respectively, appointed to any such office after the said act shall take effect, shall be entitled to compensation for his services therein except from the time when he shall reach his post and enter upon his official duties to the time when he shall cease to hold such office, and for such time as he shall be actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in making the transit between the place of his residence when appointed and his post of duty at the commencement and termination of the period of his official service, for which he shall in all cases be allowed and paid, unless such consul general, consul, commercial agent, or consular pupil, shall have resigned, or been recalled therefrom for any malfeasance in his office, in which case no such officer as is referred to in this section shall be allowed compensation for the time so occupied in such transit at the termination of the period of his official service.

When compensation commences and terminates.

Transit compensation.

344. The proper construction of the last clause of the section above mentioned has been determined by

Statutes at Large, vol. xi. pp. 52, 54; also the act of August 2, 1861, Statutes at Large, vol. xii. p. 285; also act of February 4, 1862; see copies of these acts in the latter part of this volume.

[1] The provision relating to the appointment of consular pupils has been repealed. Statutes at Large, vol. xi. p. 160.

the Attorney General of the United States, to whom the question was referred for his official opinion.

Opinion of Attorney General as to transit compensation.

345. He stated that "A doubt has also arisen about the meaning of the last clause in the eighth section of the act of 1856. A consul shall not be allowed compensation for the time occupied in coming home 'if he shall have resigned or been recalled therefrom *for any malfeasance in office.*' Do the words underscored qualify the word '*resigned*' as well as '*recalled*'? I think they do very plainly. The grammatical connection of the whole sentence is such that you cannot separate its parts without violence. A consul cannot be relieved from the duties of his office except by a resignation or recall. If they be terminated in either of these ways, but without any official guilt or delinquency, he may get what the law says a meritorious officer shall have, namely, his full pay, to be counted down to the time when he reaches his own residence. But if he violates his obligations to the public in such a manner that the government on that account is obliged to recall him, or if he resigns merely to escape a recall which he is conscious of deserving, then he shall suffer the penalty of coming home at his own expense. I do not believe that Congress ever had the least intention to make the mere resignation of office a penal offence."[1]

Instruction compensation.

346. The compensation of salaried consular officers while receiving instructions, who are in the United States at the time of their appointment, under the general rule adopted by the Treasury Department, commences with the date of the consular commission, and continues, during the time "actually and necessarily occupied in receiving instructions, not exceeding

[1] See Opinion of Hon. J. S. Black, September 21, 1857. MS.

thirty days." This "time" is determined by the Department of State, and not unfrequently the whole period of thirty days is not required. This rule, however, is subject to the limitations suggested by the Attorney General in section three hundred and seven.

Cessation of compensation.

347. At the expiration of this period, or on the receipt of his passport, the compensation of a consul ceases until he takes his departure for his post.

Delay in transit.

348. Any unnecessary delay in making the transit, either to or from his post, must be explained to the satisfaction of the Department of State; and for the time so occupied no charge must be made by a consul in his transit account.

349. If a consul is detained by sickness, evidence of this fact, with the certificate of the attending physician, must be furnished.

350. On the consul's arrival at his post of duty, his compensation ceases until he obtains his exequatur, unless, having received permission from the local authorities, he actually enters upon the discharge of his official duties.

Termination of the consular office.

351. No person holding the office of consul general, consul, or commercial agent, is deemed to hold any such office after his successor shall be appointed and actually enter upon the duties of his office at his post of duty, nor after his official residence at such post shall have terminated if not so relieved.

No compensation allowed to consular officers not embraced in schedules B and C while receiving instructions or in transit.

352. No compensation, by fees or otherwise, is allowed to any consul general, consul, or commercial agent, not embraced in schedules B and C of the act above mentioned, and who may be appointed hereafter in accordance with the fourth section of the above-mentioned act, during the time occupied in making the transit between the place of his resi-

dence and his post of duty at the commencement and termination of the period of his official service; nor to any vice consul, vice commercial agent, deputy consul, or consular agent, for the time so occupied in receiving instructions or in such transit as aforesaid.

Compensation of consular officers when performing diplomatic functions.

353. It is provided by the eleventh section of the above-mentioned act, that for such time as any consular officer shall be authorized, pursuant to the provisions of the said act, to perform diplomatic functions in the absence of the regular diplomatic officer in the country to which he shall be appointed, he shall be entitled, in addition to his compensation as such consular officer, to receive compensation for his services, while so authorized, at the rate allowed by the same act for a secretary of legation in such country.

Exercise of diplomatic functions, when forbidden, and when allowed.

354. But no consular officer shall exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or country to which he shall be appointed, or any other country or government, when there shall be in such country any officer of the United States authorized to perform diplomatic functions therein, nor in any case, unless expressly authorized by the President so to do.

No extra compensation.

355. It is further provided by the twentieth section of the Diplomatic and Consular Act, that the compensation provided by it shall be in full for all the services and personal expenses which may be rendered or incurred by the officers or persons, respectively, for whom such compensation is provided, of whatever nature or kind such services or personal expenses may be, or by whatever treaty, law, or instructions, such services or personal expenses so rendered or incurred are or shall be required.

356. It will thus be seen that no consul is entitled to any other, or to an increased compensation for any services that he may be required to render, except in the single instance when he "shall be authorized, in the absence of the regular diplomatic officer in the country to which he shall be appointed, to perform diplomatic functions."

Consuls not entitled to diplomatic compensation.

357. In countries where the United States have established no mission, and consequently are not represented by ministers, consuls can prefer no claim for extra compensation for the performance of any duties whatever, though they may partake of a diplomatic character. All consuls in such countries are simply commercial and not diplomatic officers; in that character only are they recognized by their own government or that of the country from which they respectively receive their exequaturs.[1]

Compensation of vice consuls and vice commercial agents.

358. It is provided by the fourteenth section of the act above mentioned, that no compensation shall be allowed for the services of any vice consul or vice commercial agent beyond nor except out of the allowance made by the said act for the principal consular officer in whose place such appointment shall be made.

Compensation of vice consuls, vice commercial agents, and consular agents.

359. The fifteenth section of the same act provides, that every vice consul and vice commercial agent shall be entitled, as compensation for his services as such, to the whole or so much of the compensation of the principal consular officer in whose place he shall be appointed as shall be determined by the President,

[1] See Communications to the Committee of the Senate on Foreign Relations and to the Committee on Foreign Affairs of the House of Representatives, January 22, April 12, and May 13, 1862; MSS. See also Senate Report, No. 59, 37th Congress, 2d sess.; also, Congressional Globe, 37th Congress, 2d sess., pp. 3095–3097.

and the residue, if any, shall be paid to such principal consular officer; and every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of the act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency, within the limits of which such consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by the act for his services therein.

No outfit allowed.

360. It is further provided by the twentieth section of the said act that no allowance, other than such as is provided by the act, shall be made in any case for the outfit or return home of any such officer or person; and no consular officer shall, nor shall any person under any consular officer, make any charge, or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner shall be entitled who shall be discharged in any foreign country, or for any money advanced to any such seaman or mariner who shall seek relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending home any such seaman or mariner. Such prohibition as to profit is not to be construed to relieve or prevent any such officer who shall be the owner or otherwise interested in any ship or vessel of the United States from transporting in such ship or vessel any such seaman or mariner, or from receiving or being interested in

Consular officers forbidden to charge a commission for receiving or disbursing extra wages, or to be interested in profits from the relief and passages of seamen.

Exception.

such reasonable allowance as may be made for such transportation, under and by virtue of the fourth section of the act entitled "An act supplementary to the act concerning consuls and vice consuls, and for the further protection of American seamen," approved February twenty-eighth, eighteen hundred and three.[1]

Absence of a consular officer from his post, and when compensation may be allowed for absence.

361. It is provided by the nineteenth section, that no consul general, consul, commercial agent, consular agent, or consular pupil shall be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President; and that no compensation shall be allowed for the time of any such absence in any case, except cases of sickness.

362. It is held by the Treasury Department, that if "such absence" is, through the Department of State, sanctioned by the President, compensation is to be allowed.

No compensation allowed to consular officers named in schedules B and C unless citizens of U. S.

363. It is enacted by the twenty-first section, that no compensation provided in the said act for any such officer as is mentioned in schedules B and C of the third section of the act, or any appropriation therefor, shall be applicable to the payment of the compensation of any person appointed to or holding any such office after the act shall take effect who shall not be a citizen of the United States; nor shall any other compensation be allowed in any such case.

364. It has been held by the Treasury Department that this prohibition does not affect vice consuls, who may temporarily discharge the duties of principal consular officers in the event of the absence of such officers from their posts, their resignation or death.[2]

[1] See Statutes at Large, vol. ii. pp. 203–205.

[2] See decision in regard to the compensation of the vice consuls at Geneva, Genoa, Calcutta, Liverpool, Lyons, Quebec, and other places.

Compensation of a vice or acting consul.

365. A substitute, or vice consul, left in charge of the consulate during the temporary absence of the consul, is to be compensated out of the statute emoluments of the office, subject to the regulations of the Department of State.[1]

366. An acting consul, in charge of a consulate during actual vacancy of the consulate, is entitled to receive the statute compensation of the office, subject, of course, to the provisions of the fifteenth section of the Diplomatic and Consular Act.[2]

Notice of termination of office.

367. In the case of appointments and removals by the President, when the removal is not by direct discharge or an express vacating of the office by way of independent fact, but merely by the operation of a new commission or appointment, then the virtue of the old commission ceases only when notice of the new commission is given to the outgoing officer, either by the President, or by the new officer exhibiting his commission to the old one, or by other sufficient notice, and the old officer continues to be entitled to compensation down to the time of his ceasing to perform the duties of his office.[3]

[1] Opinions of the Attorneys General, vol. vii. 714.
[2] Ibid.
[3] Ibid. 303.

CHAPTER XX.

CONSULAR FEES.

368. It is provided by section thirty-three of the Diplomatic and Consular Act,[1] that all acts and parts of acts be annulled and repealed whereby any such fees are fixed and allowed as are contemplated by section seventeen of the said act.

Prior acts in regard of fees repealed.

369. The provisions in respect to consular fees herafter to be charged are contained in the sixteenth, seventeenth, eighteenth, twenty-eighth, and thirty-third sections of the said act.

Law relating to fees.

370. Section sixteen of the act authorizes the President to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, beside such as are expressly declared by law, in the business of the several legations, consulates, and commercial agencies, and to adapt the same, by such differences as may be necessary or proper, to each legation, consulate, or commercial agency, and to report such rates or tariffs annually to Congress.

President authorized to prescribe the tariff of fees.

371. It is made the duty of all consular officers connected with the consulates or commercial agencies of the United States to collect, for official services, such, and only such fees as may be prescribed for their respective consulates and commercial agencies.

Consular officers required to collect the prescribed fees.

[1] Statutes at Large, vol. xi. pp. 52–65.

Receipts for fees to be given.

372. All consular officers are required to give receipts for all fees which shall be collected for their official services respectively, expressing the particular services for which the same were collected.

Receipts to be numbered.

373. Every consular officer is required to number all receipts given by him for fees received for official services in the order of their dates, beginning with number one at the commencement of the period of his service, and on the first day of January in every year thereafter; the numbers on the receipts and in the fee book must respectively correspond.

Fee book to be kept.

374. He is also required to keep a book, in which he shall register all fees so received by him in the order in which they shall be received, specifying in such register each item of service and the amount received therefor, from whom and the dates when received, and if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts respectively, so that the receipts and register shall correspond with each other; and in such register he must specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor, and also number each consular act so receipted for with the number of such receipt as shown by such register.

Fees to be accounted for to the Secretary of the Treasury.

375. All fees collected by the consuls general, consuls, and commercial agents mentioned in schedules B and C, and by vice consuls and vice commercial agents appointed to perform their duties, or by any

other persons in their behalf, must be accounted for to the Secretary of the Treasury, and held subject to his draft or other direction.

Sworn transcript of fee book to be furnished.

376. Every consular officer, in rendering his account or report of fees received, to the Secretary of State, is required to furnish a full transcript of the register which he is required by law to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered.

Oath, by whom to be administered.

377. This oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer resides.

Penalty for the commission of perjury.

378. It is also provided that if any consular officer shall wilfully and corruptly commit perjury in any such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried, convicted, and dealt with in the same manner in all respects as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

Consular officers appointed in accordance with section 4th of the act of August 18th to

379. All consuls general, consuls, commercial agents, and consular agents who are allowed for their compensation the whole or any part of the fees which they may collect pursuant to the provisions of the act, and all vice consuls and vice commercial agents

make return of fees to the Secretary of State.

appointed to perform the duties of said consuls general, consuls, and commercial agents, who are allowed for their compensation the whole or any part of such fees as aforesaid, are required to make returns to the Secretary of State of all such fees as they, or any other persons in their behalf, shall so collect. And all such fees as shall be so collected, accounted for, and reported, are to be reported annually to Congress.

Fees to be annually reported to Congress.

Penalty for collecting unlawful fees.

380. It is provided also that if any consular officer shall collect, or knowingly allow to be collected, for any official service, any other or greater fees than such as shall be allowed pursuant to the provisions of the said act for such services, he shall, besides his liability to refund the same, be liable to pay to the person by whom or in whose behalf the same shall have been paid, treble the amount of said unlawful charge so collected, as a penalty therefor, to be recovered by such person in any proper form of action to and for the use of such person, besides costs of suit.

Unlawful charges to be refunded.

381. In any such case the Secretary of the Treasury is authorized to retain out of the compensation of such officer the amount of the overcharge and penalty, and charge the same to the officer in account, and thereupon to refund the unlawful charge and pay the penalty to the person entitled to the same, if he shall think proper so to do.

Penalty for the omission to collect fees.

382. It is further provided, that if any consul general, consul, or commercial agent mentioned in schedules B and C, or any vice consul or vice commercial agent appointed to perform the duty of any such officer mentioned in said schedules, shall omit to collect any fees which he shall be entitled to charge pur-

suant to the provisions of the act for any official service, he shall be liable to the United States therefor, as though he had collected the same, unless for sufficient reason the Secretary of the Treasury shall think proper to remit the same.

Application to be made by American shipmasters for the performance of consular services; payment of fees required.

383. By the same act it is made the duty of every master and commander of a ship or vessel of the United States, whenever he shall have occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fees shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers to perform the service as may then be officially in charge of the consulate or commercial agency, if any there be where such service shall be required; and the master or commander shall pay to the consular officer such fees as shall be allowed for the service by the provisions of the act.

Penalty for the omission of shipmasters to obtain consular services.

384. If any master or commander of an American vessel omits to make such application, he is liable to the United States for the amount of fees lawfully chargeable for such services, as though the said services had been performed by a consular officer.

Copies of consular receipts for fees to be furnished to collectors.

385. It is made the duty of all owners, agents, consignees, masters, and commanders of ships and vessels, to whom any receipt for fees shall be given by any consular officer, to furnish a copy thereof to the collector of the district in which such ships and vessels shall first arrive on their return to the United States. These receipts, or copies thereof, are to be transmitted by the said collector to the Secretary of the Treasury for the information of the accounting officers in the adjustment of consular accounts.

Statement of certified invoices to be furnished to Secretary of the Treasury.

386. It is the duty of every collector also to forward to the Secretary of the Treasury a statement of all certified invoices which shall come to his office, giving the dates of the certificates and the names of the persons for whom and of the consular officers by whom the same were certified; a comparison of the consular accounts with the receipts and statements thus furnished will be made by the accounting officers.

Ships' papers to be retained by consular officers till payment of fees.

387. All consular officers are authorized and required to retain in their possession all the papers of ships and vessels of the United States which shall be deposited with them as directed by law, till payment be made of all demands and wages on account of such ships and vessels.[1]

Copy of consular tariff to be conspicuously posted in consulates.

388. All consular officers are required at all times to keep in their offices a copy of such rates or tariffs as shall be in force, in a conspicuous place, and subject to the examination of all persons interested therein.

Consular tariff to be annexed by collectors to every ship's clearance.

389. It is also the duty of the collectors of the several districts, whenever any clearance is granted to any ship or vessel of the United States, duly registered as such and bound on any foreign voyage, to annex thereto in every case a copy of the rates or tariffs of fees which are allowed in pursuance of the provisions of the above-mentioned act.

Requirements of law to be faithfully observed.

Reference to consular tariff.

390. Consular officers are required to give careful heed to the faithful observance of these enactments; and, in connection with the requirements of law and the instructions upon this subject, they will give especial attention to the tariff of fees prescribed by the President.

[1] Statutes at Large, vol. xii. p. 63.

CHAPTER XXI.

RECORD BOOKS AND ARCHIVES OF THE CONSULAR OFFICE.

391. THE following record books are to be kept at all inland consulates of the United States:— Record books at inland consulates.

A *despatch book*, into which are to be copied all official communications written by the consular officer to the Department of State. Despatch book.

A *letter book*, into which are to be copied all other official communications written by the consular officer. Letter book.

A *fee book*, in which the consular officer shall register all fees received by him in the order in which they shall be received, specifying in such register or fee book each item of service; the amount received therefor; from whom and the date when received; and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts, respectively, so that the receipts and register shall correspond with each other. The consular officer will specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor in such register; and also number each consular act so receipted for with the number of such receipt as shown by such register. The fee book is to be ruled and kept in accordance with Form No. 8 if the con- Fee book.

sul resides at a port, or with No. 9 if his official residence is at an inland town or city.

Passport book.

A *passport book*, in which are to be registered all passports issued by the consular officer, in accordance with Form No. 10, and the instructions prescribed in the chapter on Passports.

Invoice book.

An *invoice book*, to be ruled and kept in accordance with Form No. 11, and with the instructions prescribed in the chapter on the Authentication of Invoices.

Miscellaneous records.

A *miscellaneous record book*, for the entry of those official papers and records which cannot conveniently be classified and entered in the record books above named.

Register of letters received.

A *register of official letters received at the consulate*, which shall embrace the following information: name of the writer, number and date of letter, when received, its import, and remarks thereon, as prescribed in Form No. 12.

Register of letters sent.

A *register of official letters sent from the consulate*, stating the date and import of the letter and the name of the person to whom sent, as prescribed in Form No. 13.

Record books at sea-ports.

392. In sea-ports the following additional books will be used:—

Book of commercial returns.

A *record book of commercial returns*, to be kept in accordance with Form No. 14, in which must be stated, in respect of vessels, the number, date of arrival, class, name, and tonnage of all American vessels, where belonging, whence from, whither bound, when and where built, master and owners' names; and in respect of cargoes, both inward and outward, under distinct heads, as nearly as possible, the description, quantity, and value of the same, and where produced or manufactured.

A *seamen's register*, in which shall be recorded a detailed list of all seamen shipped, discharged, or deceased, at the consulate or commercial agency, and the payments made on account of each, according to Form No. 15. Seamen's register.

A *relief book*, showing the number and names of all seamen relieved, from what vessel discharged, date and cause of discharge, and date of leaving the consulate; embracing also the several amounts disbursed on their account, as particularly described in Form No. 16. Relief book.

A *quarterly account current book*, in which shall be recorded the account current furnished quarterly to the Fifth Auditor, as per Form No. 17. Quarterly account book.

A *protest book*, for the entry of notes of marine protests, in accordance with Form No. 18. Protest book.

A *book for the entry of extended protests*. (See Form No. 19.) Extended protests.

A *daily journal* is to be kept, as prescribed in Form No. 20. Journal.

393. When a paper of any description shall be entered or recorded in either of the said books, the same shall be indexed by a reference both to the name of the author and the subject of the paper. Books to be indexed.

394. The answers received to official letters, and all other papers transmitted to the consulate, intended to be permanently kept there, shall be put in a proper place, labelled according to their subject-matter, until a sufficient number shall accumulate to form a volume; when they shall be bound and indexed in the same manner as is directed with respect to other records. Letters received to be labelled and bound.

395. All the consular books must be regularly paged; but where blanks occur (as in the book of Books to be paged.

original letters, from the covers and unwritten pages) a cross must be made over the blank page, and it is not to be numbered.

Consular books to be kept distinct from private books.

396. The consular books are to be kept separately from those relating to the consul's private affairs; and if the consul is at liberty to transact business, his consular business should, if possible, be transacted in a separate apartment from that in which his ordinary commercial or other affairs are carried on, designated by the arms of the United States exhibited at its entrance wherever such an exhibition of the arms is not probibited by the local regulations.

Office and arms.

Keeping of archives.

397. All consular officers are instructed to take care that the archives are kept in proper order; and with this view, as well as to facilitate reference to previous correspondence, they will keep in their offices registers of all the documents, papers, letters, and books which have been or which may be at any time received, and also of those forwarded by them on matters connected with their official duties. (See Form, Nos. 12 and 13.)

Transfer of archives.

398. The originals of all despatches and letters addressed to a consular officer, and copies of all that are written by him in his official capacity, including all official reports and returns, all books presented to the consulate, or sent to it by the Department, also all the record books, as described in this chapter, are to be considered as official documents, and are to be deposited among the consular archives, after being duly registered, and transferred with the effects of the consulate, together with the seal, press, arms, and flag, and all other property belonging to the United States, to his successor in office; an inventory of the same, signed both by outgoing and incoming consular

officers, must be transmitted to the Secretary of State, with a joint certificate. (See Form No. 134.) The neglect to furnish the consular inventory subjects both consular officers to the risk of having the adjustment of their accounts suspended.

CHAPTER XXII.

CONSULAR ACCOUNTS.

Every account to be accompanied by an planatory account.

399. ALL accounts transmitted by consular officers must be accompanied by a separate communication, the subject of which must be confined exclusively to such accounts.

Accounts for miscellaneous expenses to be sent to Secretary of State.

400. All accounts for miscellaneous expenses, which are specifically allowed by the consular instructions, or otherwise incurred in consequence of the special orders of the Department, must be sent to the Secretary of State.

Accounts for salaries to be sent to Secretary of the Treasury.

401. All accounts for salaries and for compensation while receiving instructions, and while making the transit to and from the consular post, must be accompanied by the requisite certificates, (see Form, Nos. 35, 125, 126, 127,) and enclosed in a despatch explanatory of the account, to the Secretary of the Treasury, under whose direction all accounts for consular salaries are adjusted and paid.

Accounts for criminals to be sent to the Fifth Auditor of the Treasury.

402. All accounts for expenses incurred in the arrest and transportation of criminals to the United States for trial, must be enclosed in a despatch relating to that subject alone, and addressed to the Fifth Auditor of the Treasury. A separate despatch must also be addressed to the Secretary of State, giving a condensed statement of all the circumstances attending each case.[1]

[1] Statutes at Large, vol. xii. p. 21; also annual appropriations for Diplomatic and Consular Expenses.

403. All accounts for expenses incurred for the relief of destitute American seamen, must be transmitted, with the vouchers, and according to the prescribed forms, accompanied by a communication explanatory of the accounts directed to the Fifth Auditor, by whom they will be adjusted under the direction of the Secretary of State.[1] If the accounts are large, or embrace unusual or extraordinary items, a despatch in explanation of them must also be addressed to the Secretary of State.

Accounts for expenses for relief of seamen to be sent to Fifth Auditor.

Settlement of accounts at the Department of State—Miscellaneous expenses.

404. The President is authorized, by the twenty-second section of the act regulating the diplomatic and consular systems of the United States, to provide at the public expense all such stationery, blanks, record and other books, seals, presses, flags, and signs, as he shall think necessary for the several legations, consulates, and commercial agencies in the transaction of their business; and, whenever he shall think there is sufficient reason therefor, to allow consuls general, consuls, and commercial agents, who are not allowed to trade, actual expenses of office rent, not to exceed in any case ten per centum of the amount of the annual compensation allowed to such officer. Whenever application is made by a principal consular officer whose consulate is included in schedule B, for the allowance of office rent, assurance must be given that the office is devoted solely to the business of the consulate.

President authorized to provide certain articles.

Office rent may be allowed.

405. In order to prevent the occurrence of improper items in the accounts for office expenses of the several

Items allowed.

[1] Statutes at Large, vol. ii. p. 204.

consulates and commercial agencies of the United States in foreign countries, consuls and commercial agents will hereafter be careful to bear in mind that charges made for any other objects than the following are deemed inadmissible, and may not be allowed, namely:—

For one flagstaff, and one plain movable bookcase:

For binding all official communications received by consular officers:

For such stationery, comprised within the following articles, as may be used in the *official correspondence* of principal consular officers *only*, namely: ruled cap paper, with an inch blank margin around each page, letter, note, wrapping and blotting paper, envelopes, quills, steel pens and penholders, ink and inkstands, wafers, wax, pencils, gum arabic, india-rubber, rulers, and tape:

For postages on despatches to or from the departments of the government, or its agents abroad, or letters on official business, freight and other expenses upon boxes or packages sent to consular officers from this Department, or to their care for transmission.[1]

But seals, presses, flags, and arms of the United States, (one of each;) also record and other consular books, (one set,) and blank forms, as required by the Instructions, are furnished by the Department to consular officers, but not to the agents appointed by them at ports within their jurisdiction. Whenever there is not time to make application to the Department for any of these articles, reasonable charges for them may be admitted, on making the fact satisfactorily to ap-

[1] See Circular of the Secretary of State to Consular Officers, March, 1854; also Forms Nos. 12 and 13.

pear that there was an absolute necessity for their immediate purchase.

406. For the expenses, incurred as above mentioned, it is necessary that regular vouchers, except for postages, should be rendered with each account to the Department. Drafts for the above-mentioned objects are to be made on the Secretary of State. Should the vouchers be in a foreign language, they must be accompanied by translations of the same into English, and no charge is to be made therefor.

Drafts for miscellaneous expenses.

Vouchers to be in the English language.

407. Drafts must not be made for foreign moneys of account or currency, but for the equivalent value in the currency of the United States.

Drafts to be in American currency.

408. No allowance will be made to consuls and commercial agents for office rent, unless the same has been authorized, prior to the transmission of the account, in each case, by special instruction, in accordance with the provisions of the twenty-second section of the act above mentioned;[1] nor for office furniture, (except for a book-case, as above mentioned,) repairs of office, printing of any kind, (except blank forms in case of emergency,) printed books, maps, advertisements, (unless authorized by law or special instructions,) clerk hire, copying or translating, (except for copies or translations made by special order of the Department,) donations, carriage hire, travelling expenses, nor contributions for charitable objects. Accounts for any of these objects, *when authorized* by special permission, which is very rarely given, and only in case of a very extraordinary emergency, are to be kept separately and distinctly from all others. Accounts for the "actual expenses" of office rent must be accompanied by vouchers; and it

Unauthorized consular expenses.

Office rent.

[1] See section 404, supra.

is to be remembered that only the "actual expenses of office rent, not to exceed in any case ten per centum of the amount of the annual compensation," can be allowed.

Expenditures ordered by other departments not to be charged to Department of State.

409. Expenditures incurred for, or by the order of any other Department, are not to be included in any account against the Department of State.

Separate drafts to be made under each item of appropriation.

410. Separate and distinct appropriations are made for salaries of consular officers;—for the relief and protection of American seamen;—and for authorized expenses. Consular officers must, therefore, render separate accounts for salary;—for office rent;—for disbursements for stationery, postage, etc.;—for the relief of destitute seamen;—and for expenses incurred in the arrest and transportation of criminals; and they will make separate drafts, for the amount of each account, for their reimbursement, stating on the face of every draft the account for which it is made.

Drafts to be drawn at fifteen days' sight, acceptance waived.

411. All drafts drawn by consular officers, whether on the Secretary of State or on the Secretary of the Treasury, are to be drawn at fifteen days' sight, *acceptance waived*, in order to give sufficient time to the accounting officers to adjust the accounts before the day of payment. When the accounts and the necessary certificates are in order, the fifteen days will probably not be required. Drafts for disbursements made for objects not expressly authorized by law or instructions, must not be drawn until notice is received from the Department that the accounts and vouchers have been examined and approved.

Drafts for authorized expenditures.

Loss by exchange, when allowed.

412. Loss by exchange in the *sale* of drafts on the Government of the United States will be allowed, provided the evidence of sale be transmitted, showing precisely the amount of loss sustained at the time of the sale of the drafts, as per Form Nos. 129, 130.

By a decision of the accounting officers of the Treasury, charges for losses by exchange on consular drafts will not be allowed, unless thus substantiated.[1]

Endorsements on drafts by procuration.

413. Bills of Exchange drawn by United States Consuls are occasionally presented at the Department for payment, by holders whose rights are derived from endorsements not made by parties to whom such bills have been duly made payable, but by other persons claiming to act for such parties by procuration, without producing the power of attorney or other authority for the transfer of the property in such bill of exchange out of its lawful owner. The accounting officers, who are required to see that no person receives money from the Treasury but by lawful title, cannot recognize such endorsements unless on competent proof of their sufficiency; which, in the absence of the power of attorney, may be made by a bond of indemnity in double the amount of the sum claimed, executed by two sufficient sureties.[2]

414. To prevent the dishonor of such bills or drafts, it may be well for consuls to observe the form prescribed with a view to overcome this difficulty. See Form No. 124.

Prevention of informalities.

415. To prevent informalities in the accounts of consular officers and to enable the accounting officers to adjust them more readily, consular officers are directed to follow strictly the prescribed forms, and to embrace in their accounts charges for no other objects than are authorized by the instructions.

Rules to be observed.

416. They are also instructed to give their careful attention to the following points, a strict observance

[1] See Circular of the Secretary of State, July 1, 1861. Also Circular of the Treasury Department, October 1, 1858.

[2] Circular of the Department of State, October 21, 1858.

of which is absolutely necessary to prevent confusion in the settlement of accounts and to ensure the payment of drafts, namely:

First. Render a separate account for office rent and draw a separate draft for the same, taking care to include in the account and corresponding draft any loss by exchange.

Secondly. Render a separate account for postage, stationery, and miscellaneous expenses, and draw a separate draft for the same, taking care to include in the account and corresponding draft any loss by exchange.

Thirdly. Each one of the above accounts must be sustained by proper vouchers, including those for loss by exchange if there should be any.

Fourthly. Each separate account should be signed, and in each draft it should appear on what account it is drawn and for what quarter.

Fifthly. By no means fail to send your accounts promptly at, or before, the time of making your drafts.[1]

Loss in exchange.

417. The Secretary of the Treasury having decided that when payments are made to our foreign ministers, consuls, and commercial agents, for salary, by means of drafts drawn in the foreign countries in which they reside, they shall be entitled to payment in a currency of equal value to the currency paid at the United States Treasury;[2] and also that only such charges for losses by exchange as shall be shown to have been *actually and necessarily* sustained in the negotiation or sale of such drafts will be allowed at the Treasury, it has become necessary to prescribe forms of certificates conforming to these decisions,

[1] See Circular of the Secretary of State, No. 8. February 15, 1862.

[2] See Circular of the Comptroller, October 1, 1858, as modified August 25, 1862.

and, as far as practicable, to establish fixed and uniform standards of value for the various foreign coins in which such drafts may be paid.

Vouchers for loss in exchange.

418. Consular officers are therefore instructed that hereafter, in making up their accounts, they will be required to present vouchers in accordance with prescribed forms,[1] exhibiting:—

First. The date of draft.

Secondly. The amount of draft in United States currency.

Thirdly. Gross amount of draft in foreign currency.

Fourthly. The rate of exchange.

Fifthly. The cost of negotiation, or sale of draft.

Sixthly. The net proceeds in foreign currency.

Seventhly. The net proceeds in United States currency.

Eighthly. Upon whom, and on what account drawn.

Foreign currency.

419. In estimating the relative value of the foreign currency, in which they may receive the proceeds of their drafts in the currency of the United States, they will adopt the value placed upon the same in the synopsis prepared by the Director of the United States Mint.[2]

Drafts and accounts to be in American currency.

420. As United States diplomatic and consular officers are instructed to transmit their accounts for contingent, miscellaneous, and authorized expenses, in the currency of the United States, and to draw their drafts for the reimbursement of the same, not in foreign money of account or currency, but for its equivalent in money of the United States, the same rule will apply to these classes of accounts, and the same vouchers will be required in all cases to accompany them.[3]

[1] See Forms Nos. 129 and 130. [2] See Synopsis, pp. 170–180.

[3] Circular of the Comptroller of the Treasury, October 1, 1858.

Value of foreign moneys.

421. That there may be no misapprehension in the minds of consuls upon this subject, the following letter from the Director of the Mint to the Comptroller is introduced for their information and guidance.[1]

Letter of Mr. Pollock, Director of the Mint.

"I present herewith a synopsis of the standard weight, fineness, and consequent value, in our money terms, and in our gold coins, of foreign specie-moneys of account, which has been prepared at the Mint, at your request, for the adjustment of the accounts of foreign ministers and consuls of the United States. It was found necessary to put it in this form, rather than a tabular one, because of the numerous explanations required.

"In explanation of the enclosed statement it is proper to remark, that the object for which tables of value have heretofore been constructed at the Mint, appears, on mature reflection, to be entirely different from that contemplated by you. The aim has always been to answer the inquiry, what will this or that foreign coin produce on the average at the Mint? This takes for granted, what is the fact, that we receive them, not at the alleged standards, but at our own assay, and at the actual weight, which perhaps shows a material loss by wear. It is upon this principle that the tables annexed to the Director's Annual Report are constructed; and upon this basis the former statement for you was made, without a due consideration of the peculiarities of the case.

"When the object is to exhibit a comparison between our normal coin and that of another country, for the guidance of diplomatic officers, and for settlement of exchanges, shipping cargoes, and international accounts, it is only fair that the full legal weight and fineness of the foreign moneys should be taken as the basis, especially when there is an obvious aim in practice to conform to the law. We assume our dollar to be of full fineness and weight; we must assume the same of the pound sterling, franc, or florin.

[1] Letter to the Comptroller of the Treasury by Mr. James Pollock, Director of the United States Mint, September 28, 1861, accompanied by a synopsis of the standard weights, fineness, and value of foreign specie-moneys in the money terms of the United States.

"A table upon this basis is now constructed for the first time. The Mint has no exclusive facilities for such a task; it could be done by any one conversant with the subject, and having access to the diplomatic correspondence of the Comptroller; but having been favored with copies of that valuable mass of papers, we take pleasure in making some return for the benefit.

"The difficulty of giving a *gold* valuation of *silver* coin must be apparent to any one who considers that our laws provide for a sliding scale in the mint price of silver to suit the demand and supply of the market. We have paid 122½ cents per troy ounce of nine-tenths fine; we now pay 121; and some years ago the active relative value was only a fraction over 116. Our price is the same whether we pay in gold or silver; although by paying in silver coined at the fixed rate of 125 cents to the ounce nine-tenths fine, as we do at present, a profit accrues to the government. But 121 cents, whether paid in gold or silver, is now, as near as may be, the commercial value of standard silver bullion, and it is definitely the lawful price.

"Drafts are payable in whichever metal predominates in the currency, and not in either indiscriminately; or rather, the payer takes his choice. In almost every country one kind of coinage, gold or silver, is subsidiary to the other; or else stands at a premium, and so is not currency, and does not afford a standard of international valuation. Hence we have in most cases given but a single unit of value for each country, and that of the metal 'of which the usual currency of the country consists.' In doubtful cases it has been found necessary to make a double estimate.

"It is to be observed that the legal deduction of one-half of one per cent. (the coinage charge upon gold) has not been made.

"It is suggested that the acts of March 3, 1843, and of May 22, 1846, fixing the computation of foreign moneys of account at the custom-houses of the United States, being entirely in error in consequence of changes, ought, without delay, to be corrected by the ensuing statement."

A SYNOPSIS

OF THE

Standard weight, fineness, and consequent value in our money terms and in our gold coin, of foreign specie-moneys of account, prepared at the United States Mint, at the request of the Comptroller of the Treasury Department, for the adjustment of the accounts of foreign ministers and consuls of the United States.

AUSTRIA.

Austria.

THE currency is almost entirely paper; silver is the legal tender at the custom-house. The silver *gulden* or florin is divided into 100 *kreutzers*. It is coined at the rate of 45 florins to the *zollpfund* (commercial pound, or half kilogramme) of fine silver; to be alloyed to nine-tenths fine; weight 190·54 troy grains; value 48·03 cents.

BELGIUM.

Belgium.

The currency is bank paper and silver; drafts are paid in silver. The unit of value is the franc, of 5 grammes, (77·17 grains,) nine-tenths fine; value 19·455 cents.

BOLIVIA.

Bolivia.

By the consular advices, the principal current coin was the half-dollar, or four reals, two-thirds fine. An

important change has recently occurred, by which a whole dollar is issued, whose intended weight and fineness can only be gathered from the trial of a large number of new pieces; from which we have the average of 308·74 grains at 903½ thousandths, making 78·13 cents. The half-dollar, taken upon the legal standards, (which are very different,) results nearly the same, 78·04 cents to the dollar.

BRAZIL.

The currency is gold, silver, and paper, but the legal tender at the custom-house is gold, in larger sums than the *milreis*, which is the unit of value, divided into 1,000 reis. The gold pieces of 20 milreis should weigh five oitavas (276¾ grains troy) and be eleven-twelfths fine. Value of one milreis in gold 54·15 cents. Brazil.

BREMEN.

Drafts are paid in the gold ten-thaler coins of Denmark, Hanover, etc. The thaler in Bremen is divided into 72 grotes. The ten-thaler piece is coined at the rate of 17$\frac{29}{48}$ pieces to the Cologne mark. Bremen.

BUENOS AYRES.

The mint has been discontinued. "Doubloons of all the American States" are the currency of exchanges, and are considered equivalent, except the La Plata pieces, which are at 1½ per cent. discount. By the old Spanish standards the value of the doubloon, or piece of sixteen dollars, is $15·747. (But see *New Granada* and *Mexico*.) Buenos Ayres.

CENTRAL AMERICA.

Drafts are usually paid in gold coin, the standards of which are the same as in Mexico; making the Central America.

doubloon $15·747, and the dollar (in gold) 98·42 cents. But it should be noted that the four-dollar piece (two escudos) of Central America is not really worth more than $3·68, or 92 cents to the dollar.

CHILI.

Chili.

Drafts are paid in gold, either the old doubloon, rated at 17¼ *pesos*, (dollars,) or in the new *condor* of ten pesos and its parts. This piece, created by the law of 1851, is coined at the weight of 305½ Spanish grains, (235·49 grains troy,) and the fineness nine-tenths; which makes the dollar, in gold, 91·275 cents of our money. (The legal weight is not found in the correspondence, but is taken from a publication.)

CHINA.

China.

The unit of value is a "silver weight" called *liang* or *tael*, corresponding to 578·84 troy grains. It is decimally divided into 10 *tsien*, or mace; 100 *fun*, or candareens; 1,000 *li*, or cash accounts, are usually kept in *sycee*, or pure silver, or what is commercially taken as such; (we have found sycee bars 982 thousandths fine by assay;) and payments are chiefly made in Spanish and Mexican dollars. These are called "chop-dollars," from the practice of putting a small stamp on them, by way of certificate, as they pass from one merchant to another, whereby they become mutilated and reduced in weight. There is no coinage of gold or silver in China, and gold coins of any kind are regarded as a curiosity among the Chinese. At Fuh-Chau the dollar is taken at the weight of 72 candarens (416·76 grains) which is about the actual average of unworn pieces; but at Hong Kong and Canton a rate has been adopted, by which a debt of

1,000 dollars is held to be discharged by 717 taels weight of dollars "chopped or unchopped." This makes 415·03 grains per piece, and allows for some loss by abrasion. Assuming a mixture of Spanish and Mexican, our valuation of such a dollar would be 104·622 cents. At Shanghai, a tael of sycee is held to be equal to $1·48 United States money. But the unreliable fineness of sycee bars makes the dollar basis of comparison more satisfactory.

DENMARK.

Drafts are paid in silver, and the unit of value is the *rigsdaler*, divided into 6 marks, or 96 skillings. It is coined at the rate of 18½ pieces to the fine mark, or 16$\frac{3}{10}$ to the mark alloyed to seven-eighths (875 thousandths) fine, which is the legal fineness. This makes the weight of the single piece 225·9 troy grains, and the value 54·63 cents. Denmark.

ECUADOR.

The silver coins of Quito are receivable in payment of debts, the unit of value is the dollar, of eight rials. No whole dollars are coined; the principal coinage is in pieces of two rials, with a few of four rials; and "no government standard as to weight has been followed." The basis, taken, therefore, is from copious trials of weight furnished by the United States minister at Quito, by which it appears that the average of the four-rial piece is 197 grains troy, and the two rial, 92 grains, showing a great want of due relation. In payments, there are ordinarily about 97 per cent. in the smaller coin, and 3 per cent. in the larger. The professed fineness is two-thirds. Taking all these terms into consideration, the valuation of the Ecuador.

dollar would be at 68·864 cents, but an even 69 cents would be an advisable rate, as the assays seem to exceed the professed fineness, though without any regularity.

EGYPT.

Egypt

The money transactions with the United States are through the medium of drafts on London. The *piastre* is the unit of value, and the principal coin is the gold piece of 100 piastres, whose standard of fineness is seven-eighths, (875 thousandths.) but the requirement of weight does not appear. The unworn piece, however, agrees in value with our half-eagle; making the piastre, in gold, five cents.

The Viceroy has established a tariff of rates for foreign coins, in which the American is not noticed, but the pound sterling is fixed at 97½ piastres. This valuation, which makes the piastre 5·0067 cents, sufficiently confirms the above rate. (There is a "current value," which differs from the tariff value, but this latter is used in all government and mercantile contracts.)

ENGLAND.

England.

The pound sterling is the unit of value, and is represented by the gold *sovereign*, which is coined at eleven-twelfths fine, and at the weight of $46\frac{28}{40}$ pieces to a pound troy. This makes each piece $123\frac{171}{823}$ grains, or approximately 123·274. The full value thereof is $4·86656.

FRANCE.

France.

A few years ago silver was the prevailing currency; more recently, the preference has been to pay drafts in gold; but the present indications are that a greater plenty of silver will restore that metal to its former

position. We therefore give a valuation in each kind, relying mainly upon the gold.

The unit of value is the *franc*. The piece of 20 francs (*gold*) is coined at the rate of 155 pieces to a kilogramme, nine-tenths fine; making the weight of each piece 99·58 troy grains, and the value of the franc in gold, 19·2985 cents.

In silver the franc is coined at the weight of five grammes, or 77·17 grains, nine-tenths fine. Value 19·455 cents.

GERMANY.

Germany.

An important monetary convention in January, 1857, settled the standards upon a new basis for all the German States, Austria and Prussia included. Silver was declared the standard of valuation, and the ancient weight for moneys—the Cologne mark—was displaced by the new *zollpfund* or customs-pound, which is half a kilogramme, or 7·717½ grains troy.

From one zollpfund of fine silver there shall be coined 30 thalers of Northern Germany and Prussia; or 52½ florins or gulden of Southern Germany. The thaler is equal to 1¾ florin of South Germany, or 1½ florin of Austria. The thaler is divided into 30 groschen; the southern florin into 60 kreutzers; the Austrian florin into 100 kreutzers. The standard fineness of the three normal coins is nine-tenths. Consequently the weight of the thaler is 285·83 grains, value 72·054 cents; weight of the southern florin 163·33 grains, value 41·174 cents. For the Austrian florin see "*Austria*."

GREECE.

Greece.

The unit of value is the drachmé or drachm, divided into 100 *lepta*. Drafts from the United States

are paid through the medium of London or Paris, and either in gold or silver, as the holder wishes. The value of the drachmé, in gold, is 17·275 cents.

HAMBURG.

Hamburg. The currency of this free city is not identified with that of Germany. There is now no mint. The unit of value is the mark-banco, of 16 schillings; this regulates all commercial transactions, but there is also a mark-current. Payments are made in bars of silver, of which one Cologne mark fine makes 27¾ marks-banco. Hence this money of account equals 36·432 cents.

INDIA.

India. Silver is the legal tender, and the unit of value is the rupee, divided into 16 annas; the anna into 12 pice. The weight of the rupee, 180 grains; fineness, eleven-twelfths; value 46·215.

ITALY.

Italy. The *lira* of Sardinia is of the same standards as the French franc; making 19·2985 cents in gold, 19·455 cents in silver.

The silver lira of Florence is 16·356 cents. The silver scudo of Rome is 104·61 cents. The silver ducat of Naples is 82·74 cents.

JAPAN.

Japan. The unit of value is the new silver *itzebu*, which is one-third of our dollar, as near as may be. But all commercial transactions are founded on the Mexican dollar, for which see Mexico.

MEXICO.

Drafts from the United States are paid in gold or silver, apparently without preference, although there is a decided difference in our valuation. Mexico

The doubloon, of sixteen dollars, (commonly called the ounce, but incorrectly, as the mark of 8 ounces is coined into 8½ pieces,) should weigh 417$\frac{15}{17}$ troy grains; fineness, seven-eighths, or 875 thousandths; full value, $15·7471; making the gold dollar 98·42 cents.

The silver dollar, same weight, "10d. 20g." fine, or 902$\frac{7}{17}$ thousandths, makes 105·666 cents.

But as there is an habitual want of conformity to these standards, we add, that the uniform doubloon, of recent date, yields about $15·61; the new dollar, 105·317 cents; promiscuous dollar, 104·90.

MOROCCO.

The gold *bontqui*, which is intended to be equal to two Spanish dollars (40 reals) in gold, is strictly $1·9952, but might be rated two dollars of our money. Morocco.

NETHERLANDS.

The silver guilder is the unit of value; standards 154·35 grains, 945 thousandths fine; value 40·854 cents. Netherlands.

NEW GRANADA.

The "patriot doubloon," formerly issued in large quantities, and still current in commerce, is no longer coined. New Granada.

There is now a series, both of gold and silver, coined at nine-tenths fineness. The gold *condor*, of ten *pesos*, (dollars,) should weigh 16·129 grammes, which makes the peso in gold 96·492 cents. The

silver peso should weigh 25 grammes, making 97·272 cents. Both kinds are current, but drafts are usually paid in silver.

PERU.

Peru. A new system was ordained in 1855, in which the silver dollar was reduced to 475 Spanish grains; but the coinage is almost nominal, and the bulk of the currency is in Bolivian half-dollars, in which kind of money drafts are always paid. (See *Bolivia.*)

PORTUGAL.

Portugal. The unit of value is the *milreis*, of 1000 reis. Although there is a system of coinage, the bulk of commercial currency is in British sovereigns, which are legalized at the rate of 4,500 reis. Consequently the milreis in gold is 108·146 cents.

PRUSSIA.

Prussia. The thaler of 30 groschen, is the unit of value; its value by the new standards of 1857 is 72·054 cents. (See *Germany.*)

RUSSIA.

Russia. The universal currency is paper, bearing a variable relation to the silver *rouble*, which is the unit, and is divided into a hundred copecks. The standards, which are very complicated, result in a value of 77·70 cents. The actual assay of the coin being higher than the legal requirement, has made a somewhat higher valuation in the tables of our annual report.

SPAIN.

Spain. The unit of value is the *real* of vellon, divided into 100 centimos. Twenty reals are one dollar.

Drafts are paid in gold or silver; the five-franc piece of France is a legal tender at 19 reals, and is largely in circulation.

The present standards of Spanish coin are not ascertained, but it is evident that the fineness is intended to be 900 thousandths. The best specimens tried here make the real in gold 4·988 cents, and in silver 5·021 cents. If the assay of the gold fully realized 900, the real in gold would be 5·005 cents.

SWEDEN.

The new unit of value is the *riksdaler-riksmynt*, divided into 100 *oere*. It is one-fourth of the *species-daler*. Sweden.

According to our trials of the species-daler up to 1856, its weight was 524·16 troy grains, and fineness 750, making $1·1011. But according to two consular letters, and a printed statement, the species-daler since 1858 should weigh at the rate of "25 pieces to 1·828 pounds avoirdupois English," which is 511·84 grains to the piece; yet they speak of no designed reduction of weight. This would make only $1·0753. The riksdaler-riksmynt is therefore 27·53 cents, or 26·88 cents, according as the fact shall be settled.

SWITZERLAND.

Since 1852, the system of moneys has been conformed to that of France. The *franc* is divided into 100 *rappen*. (See *France*.) Switzerland.

TUNIS.

The *piastre*, whether gold or silver, is 12·5 cents, as near as may be. Tunis.

TURKEY.

Turkey.

The piastre (divided into 40 *paras*) is worth, in gold coin of Turkey, 4·352 cents; in silver coin, 4·296 cents.

ACCOUNTS FOR THE RELIEF OF DESTITUTE SEAMEN.

Relief of seamen.

422. By the fourth section of the act of February, twenty-eighth, eighteen hundred and three,[1] it is made the duty of consular officers to provide for the mariners of the United States who may be found destitute within their districts sufficient subsistence and passage to the United States, in the most reasonable manner, at the expense of the United States, subject to such instruction as the Secretary of State shall give; and the section also provides for the manner in which such mariners are to be transported to the United States.

Accounts for relief of seamen to be sent to Fifth Auditor.

423. Accounts for the relief and protection of American seamen, accompanied with sufficient vouchers, and in accordance with the forms prescribed, must be transmitted quarterly, addressed to the Fifth Auditor of the Treasury—and not, as is often done, to the Secretary of State—accompanied by a communication explanatory of the several items of the account.

Quarterly accounts to be transmitted.

424. In all cases of relief afforded, whether the seamen who have received it be returned to the United States or not, an exact account must be furnished, in accordance with Form No. 15, by the consular officer.

[1] Statutes at Large, vol. ii. p. 203.

425. Vouchers will in all cases be required in the adjustment of the accounts of consular officers.

Vouchers required.

426. For the board or subsistence of seamen in health, or sick in the hospitals, bills must be taken in every case, with the necessary receipts to the consular officer for the amount; in bills the names of the seamen, the time of subsistence, with dates of commencement and termination, and rate per day or week, must be stated, and the bills transmitted with the accounts to the Fifth Auditor of the Treasury, as per Form No. 26. For medical attendance the same rule will be observed, as per Form No. 27.

Character of vouchers.

427. For clothing, (which should be of the cheapest kind consistently with strength and durability, and such as sailors are accustomed to wear,) not only should bills of parcels, specifying the different articles and price of each, with receipts for payment, be produced, but the receipts of the seamen themselves for the articles supplied must accompany the consular accounts, as per Form No. 28. The law makes no difference in its provisions for masters and mates of vessels and seamen, and consular officers will be careful themselves to make none. When charges for supplies for officers are at a higher rate than those for seamen, a deduction of the excess will in every case be made.

Vouchers for clothing.

No discrimination to be made between officers and seamen.

428. In order to guard against defrauding destitute seamen, and to preserve the fund appropriated for their relief, the rule has long existed in the accounting offices in the Treasury Department, that the receipts for clothing, necessaries, and supplies, given by sailors making their marks, or otherwise, should be witnessed. In settling the accounts of consular officers, it appears that the execution of such receipts

Witness to receipts should be disinterested.

is, in many instances, witnessed by a member of the firm furnishing the articles. This should not be the case; the witnesses must be disinterested persons.

Violation of instructions to be reported to Department of State.

429. In the settlement of the accounts of consular officers at the Treasury, every violation of the instructions will be reported to the Department of State.

Relief of seamen not discharged but happening at a consulate.

430. If any seaman happens at a United States consulate not from discharge from a vessel, but from shipwreck or otherwise, the fact must be stated accordingly, with the time of his arrival at the consulate, so that the return will show how and when each relieved seaman happened there. And if no extra wages are received, the reasons why such wages have not been received should appear from the return, or other accompanying papers.

The three months' wages always to be exacted.

431. When American seamen are discharged in any port the three months' extra wages should invariably be exacted as required by the acts of February 28, 1803, and of August 18, 1856. The three months' extra wages are to be credited in the consular accounts; the two-thirds thereof are not to be paid to seamen until they shall have engaged on board some vessel and are about to sail, and then only to be paid in full when no disbursements shall have been made on their account. Expenses incurred for them are first to be paid, and the residue only of the two months' wages, if there be any, is to be returned to them. On payment of the two months' extra wages or the residue thereof to seamen, consular officers will take and forward receipts with their accounts to the Fifth Auditor, as per Form No. 29.

When payment of two months' extra wages are to be made to seamen.

Passage of seamen to the United States.

432. Consular officers will be careful to send all American seamen found destitute within their dis-

tricts to the United States, giving to the master of the vessel on board of which they are placed, a certificate, in accordance with Form No. 30, setting forth their names and the amount to be paid for their passage, which amount will be promptly remitted upon the receipt at the Treasury Department of the said certificate, bearing an endorsement of the collector of the customs that the seamen therein mentioned have arrived in said vessel within his district. Passages paid by consuls to intermediate ports, will not be allowed without satisfactory explanation and proof of the delivery of the seamen at the port to which such passages were paid.

Passages of seamen in foreign and other vessels.

433. To obviate the excuse sometimes made for retaining seamen at the consulates, namely, the want of vessels homeward bound in which to send them, (as the law limits the number of seamen which vessels of the United States are required to bring, and the price to be paid for their passages,[1]) consular officers are instructed, when an American vessel has received two seamen for every one hundred tons burden at the price fixed by law, to negotiate with the master of such vessel for the passage to the United States of an additional number, if necessary, at a reasonable compensation above the ten dollars fixed by law—to be paid on the presentation of the consular certificate in the usual way at the Treasury; and also with masters of foreign vessels, at reasonable rates, when opportunities by American vessels do not offer. In such cases, the reasons for the payment of increased compensation should be stated in the consular certificate.

434. When a greater number of seamen is sent in

[1] Statutes at Large, vol. ii. p. 204.

Consular certificate, Form No. 31, when required.

a vessel than it is by its tonnage required to take, or for whose passages a greater amount is allowed than is prescribed by law, a certificate must be transmitted that there were no other American vessels then in port bound for the United States, in accordance with Form No. 31.

Economy in the disbursements of fund for relief of seamen expected.

435. The great increase in the amount annually expended for destitute American seamen in foreign countries, requires the Department to adopt all proper measures, compatible with the relief and protection of that meritorious class of American citizens, for the reduction of this expenditure. In such regulations as may be adopted for this purpose, full confidence is placed in the efficient co-operation of the consular officers of the United States, to whose administration, under the instructions of the Department, are intrusted the funds appropriated for the relief and protection of seamen.[1]

Rule for the adjustment of consular accounts for relief of seamen.

436. Among the causes which appear to have produced this increased expenditure is that of the detention of seamen at some consulates for long periods of time. There can be but two reasons for this practice: first, a deficiency of American or other vessels bound to the United States, by which they may be sent home; or, secondly, such a state of infirm health of the seamen as would render it improper to send them on the voyage. In order to guard against an improper expenditure from this cause, the accounting officers, with the sanction of the Department of State, have adopted a rule to suspend, in the adjustment of consular accounts, all charges for relief afforded to seamen who have been for more than three months chargeable to the United States, unless the accounts

[1] Statutes at Large, vol. ii. p. 204.

are accompanied by satisfactory evidence, first, that the detention was caused by a want of vessels in which they might have been shipped to the United States; or, secondly, that the health of the seamen was in such a state that it would endanger their lives to send them on the homeward voyage. The evidence in the latter case is to be the affidavit or certificate, as per Form No. 32, of the attending physician.

Observance of rule enjoined.

437. The attention of consular officers is called to this rule, and a strict compliance with it is expressly enjoined in all cases in which it may be applicable. This will be requisite to ensure the payment of consular drafts on the Department.

Shipment of seamen to intermediate ports.

438. In places where opportunities of sending seamen home seldom occur, and employment on board of American vessels cannot be obtained, it may be proper for the consular officer, in the exercise of a sound discretion, to ship them to an intermediate port where they may be likely to find such employment or a passage to the United States. He will, in this case, make a specific agreement with the master of the vessel, at the most reasonable rate, for their passage; giving to him a draft on the Secretary of State for the amount, on the face of which it must be expressed that its payment shall be upon the sole condition that there shall be endorsed upon it a certificate of the consular officer at the port to which the vessel may be bound, that the seamen named have arrived at his consulate. In the exercise of this discretion, he will take into consideration the relative cost of keeping the seamen where they are, and at the port to which they can be sent, together with the expense of their passage thither, and the probability of their obtaining employment there or a

passage home, and adopt the course which may seem best, having a due regard for the interest of the United States and a proper concern for the seamen.

Administration of seamens' fund.

439. All consular officers are instructed to give special attention to the particular observance of these regulations, and also to recommend for adoption such other measures as their experience may suggest for the faithful and economical administration of the funds committed to them.

Additional allowances authorized in certain cases.

440. The fourth section of the act of February 28, 1803, makes it the duty of consuls, vice consuls, commercial agents, and vice commercial agents, to send home destitute American seamen from their districts, at a compensation not to exceed ten dollars each.[1] But as there may be seamen to be transported from seas and districts where there are no United States consuls, vice consuls, commercial agents, or vice commercial agents, Congress, by an act approved February 28, 1811,[2] authorized the Comptroller to make such additional allowance for passage as should be deemed to be equitable.

Passage of seamen payable at the Treasury.

441. The amount allowed for passage to the United States of destitute American seamen is payable at the Treasury of the United States, and not by the collectors of ports. A duplicate certificate, so designated, for such compensation should be transmitted to the Fifth Auditor of the Treasury. All accounts are to be in the name of the principal consular officer, and drafts on the Department made by those officers only. No account or draft of a vice consul or vice commercial agent will be attended to, unless in the absence of the principal consular officer from his post; in which case a certificate of that fact must

Drafts to be drawn by the principal consular officer.

[1] Statutes at Large, vol. ii. p. 204. [2] Ibid. p. 651.

accompany the account, and also the evidence of the authority given by the principal consular officer to the vice consul to draw drafts.

ACCOUNTS FOR DISBURSEMENTS IN CRIMINAL CASES.

Disbursements on account of criminals.

442. Disbursements incurred by *salaried* consular officers for the arrest or imprisonment of persons accused of committing any crime against the United States, should be charged in the general quarterly consular account, transmitted to the Secretary of the Treasury, and will thus be reimbursed to the consul from fees received for the government.

443. In those consulates where the fees are inadequate to cover the salary and expenses chargeable to the government, and in those consulates and commercial agencies not included in schedules B and C, the amount thus charged will swell the amount due to the consul, and will therefore be included in his draft on the Department of State.

Separate accounts for disbursements for criminals to be sent.

444. For disbursements and expenses thus incurred at these consulates, the consular officers will, in all cases, forward to the Secretary of State separate and distinct accounts, with the necessary vouchers, which will, of course, be subjected to examination and revision by the accounting officers.

Charges for depositions.

445. Reasonable charges for taking depositions in criminal cases will be allowed in the accounts of *unsalaried* consular officers.

Passage of prisoners to the United States.

446. No specific instructions can be given as to the precise amount a consular officer may contract to

allow a master of a vessel for transporting a prisoner to the United States for trial. The character of the individual charged with the offence is to be taken into consideration as well as the opportunities which may be offered for his passage to the United States.

Passage from ports frequented by American vessels.

447. If the prisoner be at a port frequented by American vessels, no contract for his passage should be made till the consular officer is able, after sufficient inquiry, to make an agreement that shall not be deemed unreasonable by himself or the accounting officers.

Cost of passage, when excessive.

448. If the amount demanded should be excessive, the consular officer will take into consideration the probability of the arrival of other vessels within a reasonable time.

Passage from ports rarely visited by U. S. vessels.

449. If the prisoner is at a port rarely visited by American vessels, where the expenses of confinement are heavy, these circumstances, and all others bearing on the question, should be taken into consideration by the consul, and he should act as would a discreet and prudent man in his own business.

Compensation for passage may be left to the Department of State.

450. A consular officer may, therefore, agree upon a reasonable compensation with the master of a vessel for the transportation of a prisoner to the United States; or, by mutual agreement, the compensation may be left to the determination of the Department of State, when all the circumstances shall have been presented after the arrival and delivery of the prisoner to the proper authorities.

No allowance unless by special instruction, for defending American seamen in courts.

451. No allowance will be made to consular officers for expenses incurred in procuring the defence, in any court of law, of American seamen, accused of violating the laws of foreign countries, without the special permission or sanction of the Department of State.

ACCOUNTS OF CONSULAR OFFICERS FOR SALARIES.

452. Consular officers acting under the provisions of the act approved August 18, 1856, are required to keep, with their other official books and records, a fee book, as described by the instructions, properly prepared, and well and substantially bound. This book, in addition to the usual faint lines, is to be ruled in columns, for date, number, name of the vessel and captain, or other party or parties who may pay fees, the nature of the service rendered, and the amount of the fee therefor, as in Form No. 8, or No. 9. Consuls residing at sea-ports are to be guided, in making their return, by Form No. 8; those at inland places by Form No. 9.

Fee book to be kept.

453. For every fee received, or for the aggregate amount received at any one time from the same party, a separate and distinct bill must be rendered, and receipted when paid; which bill is to be duly entered in the fee book, specifying in the respective columns the date, name, nature of the service rendered, and amount of the fee, and, if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by the consular officer therefor; and to each entry thus made, on the corresponding faint line, the regular number must be placed, commencing each calendar year with number one, and continuing the same in regular numerical order until the close of the year, and to each bill so rendered and paid, the corresponding number in the book must be affixed, so that the receipts and register shall correspond with each other. A full and perfect transcript of this fee

Fee book, how to be kept.

Transcript of fee book to be sent by salaried consular officers to Treasury Department; by other consular officers to Department of State.

book must be transmitted quarterly, by *salaried* consular officers, to the Treasury Department, duly certified under the seal of the consulate or commercial agency, as required by the eighteenth section of the act above mentioned, of said officers specified in schedules B and C. All other consular officers will send a transcript of their respective fee books with their quarterly returns, but with a separate despatch, to the Department of State.

Transcript to be certified by oath.

454. It is provided by the same section of the act that every consular officer, in rendering his account or report of fees received, shall furnish a full transcript of the register which he is hereby required to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered. Such oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer resides.

Penalty for perjury.

455. It is provided also that if any consular officer shall wilfully and corruptly commit perjury, in any such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried and convicted, and dealt with in the same manner, in all respects, as if the offence had been committed in the United States before any officer duly authorized therein to administer or take an oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

456. Consuls general, consuls, and commercial agents, are entitled to compensation for their official services, from the time when they reach their posts and enter upon the discharge of their duties, to the time when they severally cease to hold their offices; and also for such time as shall actually and necessarily be occupied in receiving their instructions and making the transit between their places of residence at the time of appointment and their several posts of duty, at the commencement and termination of the period of their official services, except in case of resignation, or recall for any malfeasance in office.

Commencement and termination of consular compensation.

457. If a consular officer enters upon his duties in a quarter partly expired, his first account should be made up to the close of such quarter; each quarter ending by law on the 31st March, 30th June, 30th September, and 31st December, respectively. Afterwards, the accounts must be rendered quarterly, until the termination of the service. The drafts for salary must be made quarterly, corresponding to the quarters of the fiscal year; drafts for a fraction of a quarter are not to be made, except for such fraction as may intervene between the commencement of the salary and the close of the current quarter of the fiscal year, and for the period between the commencement of a quarter and the termination of their office. The outgoing consular officer, if present, and the incoming one should jointly certify the date on which the latter enters on the duties of his office.

Accounts and drafts to be made quarterly.

458. It is provided by section nineteen of the act, that no consular officer or consular agent shall be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of

Compensation, when allowed in cases of absence.

the President. And no compensation will be allowed for the time of any such absence in any case, except in cases of sickness and where the absence is permitted or sanctioned by the President.[1] In such cases, a certificate of the fact must accompany the account, which certificate must be signed by the attending physician, as well as the consular officer.

Forms and certificates to accompany consular accounts.

459. Each account and draft must, therefore, be accompanied with a certificate stating the fact in regard to absence as it exists. A form, (No. 33,) according to which the accounts of consuls and commercial agents for salaries should be stated, and also forms (No. 34, No. 35, and No. 36,) of the several descriptions of official certificates required to accompany consular accounts, are annexed to these Instructions.

Forms and instructions to be observed.

460. Consuls are especially instructed to observe carefully these forms and instructions in regard to their accounts, in order that all possible facilities may be afforded for the adjustment of the same, and the payment of their salaries under the act, without the dishonor of their drafts.

Application of fees to payment of salaries.

461. As many of the United States consular officers are stationed at places so remote from the United States that much time must elapse in making remittances to and from the Treasury Department, and much risk be incurred, as well as loss by exchange, consuls and commercial agents are instructed to retain (of the fees which they are required to charge for certain services, and account for at the expiration of every three months) such moneys as they may receive for their official services, as prescribed by the President, and apply the amount thus received during

[1] Opinion of Attorney General, September 21, 1857. MS.

the quarter, at the end of the same quarter, towards the payment of their salaries, if less than the full amount thereof; if equal to their salaries, respectively, then to the extinguishment of the same. Should there be a surplus, the excess is to be held subject to the draft or order of the Secretary of the Treasury.

Drafts for salary.

462. When the amount received by any consular officer on account of fees during the quarter, shall be less than his salary for such quarter, he may draw on the Secretary of the Treasury for the difference, at fifteen days' sight. It must be stated on the face of the draft that it is for the residue of salary, designating the quarter in which the deficiency occurred for which it is drawn. The account of the receipts of the consular officer during the same quarter must precede the draft, so that it may be received and adjusted by the accounting officers, prior to the presentation of the draft. All consular officers are explicitly instructed that their drafts on account of their salaries cannot be honored unless drawn in the manner stated in these instructions, and accompanied with the official statements and certificates herein pointed out.

CHAPTER XXIII.

OFFICIAL INTERCOURSE OF UNITED STATES CONSULAR OFFICERS WITH OFFICERS OF THE NAVY.

Regulations respecting official intercourse with navy officers.

463. To promote harmony and concert of action between the commanders of ships of war and consular officers of the United States residing in foreign ports, the following regulations have been established, by direction of the President of the United States, and are promulgated for the government of the officers concerned:

1. Upon entering a foreign port where a consular officer of the United States of a lower rank than a consul general resides, the commander of a United States ship of war will send a boat on shore with an officer on board, who shall visit the consul, and tender to him a passage to the ship;

2. Where a consul general resides, it is the duty of the commander of an American ship of war (commanders of squadrons excepted) to visit the consul general, and offer him a passage to the ship;

3. The commander of a squadron will send a boat on shore, as prescribed in the first regulation, tendering to the consular officer a passage on board to the flag ship of war.

Visit of a consular officer to a United States vessel.

464. According to the first regulation, a consular officer of the United States residing at a foreign port which is visited by a ship of war of the United States, is to receive the first visit from such ship, in the per-

son of an officer belonging to it, deputed and sent for that purpose by the commander; and this officer is then to tender to the consul a passage to the vessel. In such cases the consular officer will accordingly avail himself of the proposed accommodation whenever occasion may require, both for the purpose of making the first visit to the commanding officer of the ship in question (this being a mark of courtesy due to the commission and rank he holds in the navy of the United States) and to offer any services which his official situation may enable him to render for the convenience of the ship or those belonging to it; and the consular officer will accordingly receive and execute any such commission as may be intrusted to him for these ends by the commanding officer, as far as it may be compatible with his sense of public duty.

Visit of a navy officer to a consul general, and the duty of the latter.

465. According to the second and third, it shall be the duty of the commander of any United States vessel (commanders of squadrons excepted) to visit the consul general, and offer him a passage to the ship of war, or that of the commander of a squadron to send a boat on shore, as prescribed in the first regulation, tendering to the consular officer a passage on board to the flag ship of war. The consul general and consul of the United States, where there are such officers, will, accordingly, reciprocate these attentions on the part of the commanders of the ships of war, or will pay the first honors to the commanding officers of squadrons, as the case may be; and they will of course employ their good offices, as far as it may be useful or proper on their part, to promote the interests and convenience of the service in which such vessels are engaged.

Salutes.

466. Consuls general are entitled to a salute of nine guns, consuls to a salute of seven guns, vice consuls, consular agents, commercial agents, and vice commercial agents, to a salute of five guns; which salutes are only to be fired once during the stay of a man-of-war; or in case of any special emergency, of which the commanding naval officer must be the judge, the salute may be repeated. On the first gun being fired, the boat which conveys the consular officer who is receiving the salute must stop, the oarsmen either lying on their oars or tossing them up. The consular officer will face the vessel firing the salute; and at the end of the salute he will raise his cap in a distinct and unmistakable manner; the boat will then proceed.

Presence of United States vessels to be requested only in great emergencies.

467. Consular officers will refrain from requesting, except through the medium of the Department of State, the presence of United States vessels at the ports in their respective consular districts, unless for the protection of the lives and property of American citizens which might be endangered by delay; in such a case the consular officer will present to the commander of the vessel a statement of the facts, who will act upon his own responsibility, subject to the general or special orders he may have received from the Navy Department.]

CHAPTER XXIV.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO CITIZENS OF THE UNITED STATES.

468. It is the duty of a consular officer (unless absent with the permission of the President) to be always at his post,[1] to watch over and protect, so far as he may be able, the commercial interests of his fellow-citizens, and to be ready to assist them with his advice, when asked, on all doubtful occasions.

Presence of consular officer at his post.

469. In the event of any attempt being made to injure American citizens, either in their persons or property, he will strive to uphold their rightful interests, and the privileges secured them by treaty, by due representation in the proper official quarter. He will, at the same time, be careful to conduct himself with courtesy and moderation in all his transactions with the public authorities, and upon no account to urge claims on behalf of citizens of the United States to which he may not, after a faithful examination, believe them justly entitled.

Duty toward American citizens.

470. If redress cannot be obtained from the local administration, the consular officer will apply to the legation of the United States, if there be one in the country where he resides; and in all cases he will transmit copies of his correspondence on the subject, with a succinct report of his proceedings, to the De-

Mode of seeking redress of grievances.

[1] Statutes at Large, vol. xi. p. 59.

partment of State, and also observe strictly the instructions which he may from time to time receive upon the subject, either from the legation or from the Department.

Contentions to be avoided.

471. Consular officers are cautioned not to engage in any contentions with the authorities of the places where they reside, but to observe on all occasions toward them a courteous but firm and dignified demeanor; and they will be careful to avoid the expression of private or excited feeling in their official communications.

Compensation for notarial services.

472. Consular officers are often called upon, by their fellow-citizens at home, or by those temporarily residing within their consulates, to investigate titles to property, examine official records, and prepare legal or notarial papers. For compensation for such services no provision is made by law; and it cannot reasonably be expected that consular officers should perform them gratuitously. Whenever application is made to them for such purposes, they will either transact the business themselves, the rate of compensation being determined either by agreement or the custom of the place, or refer the individual making the request to a competent attorney or notary.

Consular officers authorized to administer oaths and perform notarial services.

473. By the twenty-fourth section of the act of August 18, 1856, the consular officer is authorized, whenever he shall be required, or may deem it necessary or proper so to do, within the limits of his consulate or commercial agency, to administer to or take from any person, an oath, affirmation, affidavit, or deposition, and also to perform any notarial act or acts, such as any notary public is required or authorized by law to do or perform within the United States. Every such oath, affirmation, affidavit, deposition,

and notarial act administered, sworn, affirmed, taken, had, or done, by or before any such officer, when certified under his hand and seal of office, is as good, valid, and effectual, and of like force and effect within the United States, to all intents and purposes, as if such oath, affirmation, affidavit, deposition, or notarial act had been administered, sworn, affirmed, taken, had, or done, by or before any other person within the United States duly authorized and competent thereto. It is further provided, that if any person shall wilfully and corruptly commit perjury, or by any means procure any person to commit perjury in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with, in any district of the United States, in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence. Any document purporting to have affixed, impressed, or subscribed thereto or thereon, the seal and signature of the officer administering or taking the same in testimony thereof, is to be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false and counterfeit, he shall be deemed and taken

Penalty for perjury.

Penalty for forgery.

to be guilty of a misdemeanor, and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined in a sum not to exceed three thousand dollars, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

Offences committed at sea punishable in the United States, and offenders to be demanded.

474. If a citizen of the United States be charged with a criminal offence alleged to have been committed *at sea* on board of an American vessel, it will be the duty of the consular officer to require that the individual so accused be delivered to him, to be sent home for trial.

Offences committed in port; by whom cognizable.

475. If, however, the offence be committed on board an American vessel *in a foreign port*, the consular officer can exercise no jurisdiction in the premises, except under the provisions of express treaty stipulation, established usage, or through the courtesy of the official authorities of the country, who, from motives of international comity, may refer the matter, at the request of the consular officer, for adjudication to the judicial authorities of the United States.

Extent of national jurisdiction.

476. Circumstances of recent occurrence make it advisable for consular officers clearly to understand the limitation of their consular jurisdiction over the crews of American vessels in foreign parts. The general principle of law, as stated by the Supreme Court of the United States, is, that the jurisdiction of a nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. All exceptions, therefore, to the full and complete power of a nation within its own territories must be traced to the consent of the nation itself, which possesses an exclusive right to

regulate persons and things within its own territory, according to its own sovereign will and public policy.[1] When private individuals of one nation spread through another, as business or caprice may direct, mingling indiscriminately with its inhabitants, or where merchant vessels enter its harbors for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country.

Offences committed on board an American vessel in a foreign port by any of its passengers or crew punishable in the United States.

477. If any offence be committed on board any American vessel within the jurisdiction of any foreign State, by any person belonging to the company of the vessel or any passenger, on any other person belonging to the company of the vessel or any other passenger, it is provided by law, that the offence shall be cognizable and punishable by the proper circuit court of the United States, if the offenders are brought to this country, in the same way and manner, and under the same circumstances, as if the offence had been committed on board of said vessel on the high seas, and without the jurisdiction of the said foreign State.[2]

Jurisdiction of United States Federal and State courts.

478. It is undoubtedly true, that the State and Federal courts of the United States could, if they chose to do so, and would, on any proper occasion, exercise jurisdiction over any foreign merchant vessel and its company, in any of our ports, even in regard to transactions which might take place within our territory between the members of that company; and

[1] Cranch's Reports, vol. vii. p. 136; Story, Conflict of Laws, p. 19; Phillimore, vol. i. p. 233.

[2] Statutes at Large, vol. iv. p. 115; Phillimore, vol. i. p. 356.

they would not yield to the claim of a foreign consul to surrender that jurisdiction as a matter of right, unless granted by treaty stipulation, though, doubtless, in most cases, questions relating to the discipline of a crew on board a foreign vessel in any of our ports where there was a consular officer of the nation to which such vessel belonged, would be permitted to be adjusted by the consul without the interference of the local authorities.

CHAPTER XXV.

THE RECIPROCAL DUTIES OF CONSULAR OFFICERS AND MASTERS OF AMERICAN VESSELS.

Deposit of ship's papers.

479. By an act of the Congress of the United States, approved February 28, 1803,[1] it is in substance directed that every master of an American vessel shall, on his arrival at a foreign port, deposit his register, sea letter, and Mediterranean passport, with the consular officer of the United States, if there be one at the port, under a penalty of five hundred dollars, which the consular officer may recover in his own name for the use of the United States, provided the penalty be sued for within two years, the limitation prescribed by the act of seventeen hundred and ninety.[2]

Delivery of ship's papers.

480. Whenever a clearance from the proper officer of the port shall be produced to the consular officer, he shall deliver up all the ship's papers, provided the master shall have complied with the provisions of the above-mentioned act, and those of the twenty-eighth section of the act of August eighteen, eighteen hundred and fifty-six.

Payment of all demands to be made before return of papers.

481. All consular officers are authorized and required, by this section, to retain in their possession all the papers of such ships and vessels, which shall be deposited with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.

[1] Statutes at Large, vol. ii. p. 203. [2] Ibid. vol. i. p. 254, note.

Ship's papers not required where there is no formal entry.

482. Where vessels merely touch at a foreign port to try the market, or are accidentally driven into such port, and make no formal entry, it does not constitute an "*arrival*" within the meaning of the act, and the ship's papers cannot be required by the consul.[1]

An arrival defined.

483. As some doubt has arisen in regard to what constitutes an "arrival," the attention of consuls and commercial agents is particularly called to the following extract from an opinion of the Supreme Court of the United States:[2]

Opinion of Supreme Court as to what constitutes an arrival.

"Our view, then, is, that the term *arrival*, as used in this act, must be construed according to the subject-matter, the object of the provision, and the expressions in other sections of this act, and in other like acts; and that according to all these, a vessel putting into a foreign port to get information, and getting it without going at all to the upper harbor or wharfs, and not entering, or repairing, or breaking bulk, or discharging seamen, or being bound homewards, so as to take seamen, or needing the aid of the consul in any respect, but leaving the port in a few hours; not doing any of these, nor being required to, and duly entering and delivering her cargo at a neighboring port, where it had been sold, and there depositing her papers with the vice consul, cannot be said to have arrived at the first port, so as to come within the spirit of the penal provision as to depositing her papers with the consul. So far as regards precedents on this matter, the actual decisions of one court and the opinions of two Attorneys General are in favor of our conclusion."[3]

Papers of a vessel driven into a port.

484. Vessels accidentally driven into a port are not required to deposit their papers with the consular officer,[4] unless formal entry be afterwards made, or consular services required.

[1] United States *v.* Shackford, Mason's Reports, vol. v. p. 445.

[2] Howard, vol. ix. p. 372.

[3] Opinions of the Attorneys General, vol. iv. p. 340; ibid. vol. v. p. 161; Toler *v.* White, Ware, p. 280.

[4] Statutes at Large, vol. i. p. 167.

485. It is stated in an opinion[1] of the Attorney General, that the body of the second section of the act of eighteen hundred and three, contemplates an arrival at a foreign port, with a clearance from the proper officer of the port. It is the production of the clearance to the consular officer which gives to the master the right to demand a return of the ship's papers, and imposes on the consul the duty of returning them.

Effect of the production of a clearance.

486. The proviso to the section[2] allows the consular officer, notwithstanding the clearance from the proper officer of the port, to detain the ship's papers until certain requirements of law shall have been complied with: which are the payment of the fees due the consular officer for his services;[3] the payment to him of three months' pay, additional to wages due, for every discharged seaman who is designated on the certified list of the ship's company as a citizen of the United States; and the taking on board, at the request of the consular officer, of destitute mariners for transportation to the United States.[4]

When ship's papers may be retained.

487. This right of the consular officer attaches to the register and other papers when they shall have been lawfully deposited with him; but the statute does not compel the deposit for the purpose of giving the right of detention.

Limitation of the right of a consular officer to a ship's papers.

488. Neither the section of the act which regards discharged seamen, nor that which provides for distressed seamen, nor the regulation as to consular fees, requires a deposit of the register and other papers, although the former makes it the duty of the master to exhibit to the consul a certified list of the ship's

Interpretation of legal provisions.

[1] Opinions of the Attorneys General, vol. vi. p. 168.
[2] Statutes at Large, vol. ii. p. 203.
[3] Ibid. vol. xi. p. 63.
[4] Ibid. vol. ii. p. 204.

company. And the proviso above cited does not enlarge the scope of the other provisions of law as to the deposit of the papers; it only releases the consul from the duty, which would otherwise be imperative upon him, of returning the papers upon exhibition of the clearance alone.[1]

Duty of a consular officer on the failure of a shipmaster to deposit his ship's papers.

489. By the first section of the act of eighteen hundred and three, it is made the duty of the consular officer, immediately on the arrival of an American vessel, should the master neglect to deliver his ship's papers, as he is directed by law, to inform him of the necessity of so doing, by showing him the law that requires it, and apprising him of the penalty he will incur by refusal or neglect. If he fail to comply, a certificate of the fact, under the consular seal, (see Form No. 37,) must be immediately sent to the Department of State, giving a description of the vessel, the port to which she belongs, where bound, and the usual residence of the master. In such a case, it is desirable that the consul should send some other evidence of the arrival and departure of the delinquent master with his vessel, besides that of his own certificate, as it has been held that such evidence of any fact is not sufficient,[2] unless expressly or impliedly made so by statute.[3]

Papers to be safely kept and a certificate to be given.

490. When the ship's papers are received, they are to be kept together in as safe a place as possible, to guard against fire and other accidents; and the

[1] Opinions of the Attorneys General, vol. vi. p. 169.

[2] Levy *v.* Burley, Sumner, vol. ii. p. 355; Waldron *v.* Cranch, Taunton Reports, vol. iii. p. 162; Church *v.* Hubbard, Cranch, vol. ii. p. 237; The United States *v.* Mitchell, Wash. C. R. vol. ii. p. 478.

[3] Since the delivery of this opinion provision has been made by the twenty-fourth section of the Diplomatic Consular act of August eighteen, eighteen hundred and fifty-six, to give validity within the United States to the certificates of consular officers.

consul, on receiving such papers, shall give a certificate of the fact, (see Form No. 38,) or a receipt, under seal, and make an entry in his consular record, specifying the time of delivery, the name of the vessel, the master, and the character of the papers deposited.

Delivery of papers with a certificate.

491. Whenever the master shall produce the clearance of his vessel, and shall have complied with the directions of the acts above mentioned, having fulfilled every lawful requisition of the consul and of the local authorities, the consul shall, without delay, deliver up the papers, with a consular certificate, (see Form No. 39,) under seal, of the time of such delivery, and make an entry of the like period in his consular record.

Crew list to be delivered to collector.

492. Before a clearance is granted to any American vessel bound on a foreign voyage, the master thereof is required to deliver to the collector of the customs a list, containing the names, places of birth, and residence, and a description of the persons who compose his ship's company, to which list the oath or affirmation of the captain is to be annexed, that it contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them; a certified copy, written in a uniform hand, without erasures or interlineations, must be delivered to the master by the collector, for which he is entitled to receive from the master the sum of twenty-five cents. The said master must then enter into bond, with sufficient security, in the sum of four hundred dollars, to exhibit the aforesaid certified copy of the list to the first boarding officer at the first port in the United States at which he shall arrive on his return thereto, and then and there also to produce the per-

All seamen named in crew list to be accounted for.

sons named therein, to the said boarding officer, whose duty it is to examine the men with such list, and to report the same to the collector.

Arrival of a vessel at a port in the U. S. different from that of departure.

493. It is the duty of the collector at the said port of arrival (where the same is different from the port from which the vessel originally sailed) to transmit a copy of the list so reported to him, to the collector of the port from which said vessel originally sailed.

Shipmaster's bond; when not forfeited.

494. It is provided, however, that the said bond shall not be forfeited on account of the said master not producing to the first boarding officer, as above mentioned, any of the persons contained in the said list who may be discharged in a foreign country with the consent of the consular officer residing there; which consent is to be signified in writing, under his hand and official seal, and produced to the collector, with the persons composing the crew as aforesaid; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.[1]

Shipping articles.

495. In addition to the certified copy of the crew list above mentioned, a certified copy of the shipping articles must likewise be obtained from the collector of the district from which the clearance is made, containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Effect of interlineations, erasures, &c.

496. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, are considered fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with

[1] Statutes at Large, vol. ii. p. 203.

innocent purposes and the provisions of law which guard the rights of mariners.

497. These documents, which are deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, must be produced by the master, and laid before any consular officer or other commercial agent of the United States, whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.[1]

Consular officer may require the production of crew list and shipping articles.

498. Whenever a ship or vessel belonging to a citizen of the United States is sold in a foreign country, and her company discharged, or when a seaman or mariner, a citizen of the United States, is with his own consent discharged in a foreign country, it is the duty of the master or commander to produce to the consular officer the certified list of his ship's company, and pay to such consular officer for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such mariner or seaman, two-thirds thereof to be paid by such consular officer to each seaman or mariner so discharged, or the residue of two months' wages, after payment of expenses which may have been incurred by the consul for his relief, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the

Payment of three months' wages; when required.

[1] Statutes at Large, vol. v. p. 394.

maintenance of American seamen who may be destitute, and may be in such foreign port.[1]

Seamen's fund to be accounted for.

499. The several sums retained for the seamen's fund are to be accounted for to the Treasury Department by the consular officers receiving the same.[2] (See Form No. 40.)

Desertion of a seaman.

500. Whenever any seaman or mariner of any vessel of the United States deserts such vessel, the master or commander of the vessel is required to note the fact and date of the desertion on the list of the crew, and to have the same officially authenticated at the port or place of the consulate or commercial agency first visited by the vessel after such desertion, if the desertion shall have occurred in a foreign country; or if, in such case, the vessel shall not visit any place where there is any consulate or commercial agency before her return to the United States, or if the desertion shall have occurred in the United States, the fact and time of desertion shall be officially authenticated before a notary public immediately at the first port or place where such vessel arrives after the desertion. All wages that may be due to such seaman or mariner, and whatever interest he may have in the cargo of such vessel, shall be forfeited to and become the property of the United States, and be paid over for their use to the collector of the port where the crew of such vessel are accounted for as soon as the same can be ascertained, first deducting therefrom any expense which may necessarily have been incurred on account of such vessel in consequence of such desertion.[3]

501. In settling the account of such wages or in-

[1] Statutes at Large, vol. ii. p. 204.
[2] Ibid. vol. ii. p. 203.
[3] Ibid. vol. xi. p. 62.

terest, no allowance or deduction shall be made, except for moneys actually paid, or goods at a fair price supplied, or expenses incurred to or for such seaman or mariner, any receipt or voucher from or arrangement with such seaman or mariner to the contrary notwithstanding.[1]

Settlement of seamen's accounts.

502. When any mariner shall complain that the voyage is continued contrary to his agreement, or that he has fulfilled his contract, provided it be a lawful contract, the consular officer may examine into the subject by an inspection of the articles of agreement; and if on the face of them he finds the complaint to be well founded, he is required to discharge the mariner, if he desires it, and require of the master an advance, beyond the lawful claims of such mariner, of three months' wages, as provided in the act of February 28, 1803; and in case the lawful claims of such mariner are not paid upon his discharge, the arrears shall from that time bear an interest of twenty per centum.

Discharge of seamen when the voyage is continued contrary to agreement.

503. If, however, the consular officer shall be satisfied that the contract was a legal contract and has expired, or the voyage been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay.[2]

Three months' pay; when not required.

504. Upon the application of any seaman or mariner for a discharge, if it shall appear to the consular officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law as recognized in the United

Discharge of seamen under any act of Congress or general usages.

[1] Statutes at Large, vol. xi. p. 62. [2] Ibid. vol. v. p. 168.

States, he is required to discharge such seaman or mariner, and require from the master or commander of the ship or vessel from which such discharge shall be made the payment of three months' extra wages, as provided by the act approved February 28, 1803; and it shall be the duty of such master or commander to pay the same, and no such payment, or any part thereof, shall be remitted in any case, except such as are mentioned in the preceding section, and in cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, when no payment of extra wages shall be required.[1] The extra wages required to be paid by the foregoing clause of this section are applicable to the same purposes and in the same manner as is directed by the act approved February 28, 1803, in regard to the extra wages required to be paid by that act.

Extra wages.

Disposition of extra wages.

Survey of a vessel; when to be ordered.

505. If the first officer, or the second and third officers and a majority of the crew, of any vessel make complaint in writing that she is in an unsuitable condition to go to sea, because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome, thereupon, in any of these or like cases, the consular officer of the port is required to appoint two disinterested, competent, practical men, acquainted with maritime affairs, to examine into the causes of complaint, who must, in their report, state what defects and deficiencies, if any, they may find to exist, as well as what, in their judgment,

Appointment and qualifications of inspectors.

[1] Statutes at Large, vol. xi. p. 62.

ought to be done to put the vessel in order for the continuance of her voyage.[1]

Duty of inspectors.

506. The inspectors so appointed have full power into examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consular officer be satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval, and if he dissents, shall also certify his reasons for so dissenting.

Discharge of crew and payment of extra wages.

507. The fourteenth section of the act of July 20, 1840, provides, that if the inspectors report that the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, and the consular officer approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay in addition to his wages to the time of discharge.

When the crew are not to be discharged.

508. If the deficiency complained of by the crew is reported by the inspectors to have been the result of mistake or accident, and could not in the exercise of ordinary care have been known and provided against before the sailing of the vessel, and the master shall, in a reasonable time, remove or remedy the causes of complaint, then the crew shall remain and discharge their duty.

Proceedings in case the complaint is not remedied or removed.

509. But if the master does not, in a reasonable time, remove or remedy the cause of complaint, then the crew shall, upon their request, be discharged, and they shall receive, each, "one month's wages in addition to the pay up to the time of the discharge."

[1] Statutes at Large, vol. v. p. 396; ibid. vol. ix. p. 441.

Payment of damages and charges for inspection.

510. The master is required to pay all such reasonable charges in the premises as shall be officially certified to him under the hand of the consular officer; but in case the inspectors report that the complaint is without good and sufficient cause, the master may retain from the wages of the complainants, in proportion to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consular officer directing the inquiry may officially certify.[1]

Construction of the act of 1840 as to seamen's wages.

511. The act of July 20, 1840, does not change the general principle of the maritime law, that seamen's wages are not due for a voyage not performed, when no freight has been earned, when the voyage has been broken up by a disaster at sea, and when no fault is attributable to the master or owners; nor does it put it into the power of the crew, when the vessel is obliged to put into the nearest port for safety in consequence of a leak caused by straining in heavy rolling seas, rendering her unable to continue the voyage until repaired, to complain of the master for such an event, cause the vessel to be sold, and thereby acquire profit to themselves by the payment of wages not earned, and the further advance of pay for three months to come.[2]

Application of the act of 1803 to the sale of a vessel.

512. The act of February 28, 1803, applies only to the voluntary sale by the master in a foreign port, or by the owners, and not to a case where a sale is rendered necessary by shipwreck.[3]

Construction of the act of 1840 as to unseaworthy vessels.

513. In its twelfth, thirteenth, and fourteenth sections, the act of July 20, 1840, does not apply to a vessel not about to sail from the port in an unsuitable

[1] Statutes at Large, vol. v. p. 394.

[2] Opinions of the Attorneys General, vol. vi. p. 625. [3] Ibid. p. 622.

condition. It applies to a case where a vessel, having arrived at a foreign port, is about to sail thence on another or continuous voyage, and the crew apprehend that their lives will be endangered because of her unsuitable condition to go to sea, and make complaint to the consular officer of the intention to go to sea in an improper and unsuitable condition, and state the reason of such unsuitable condition to be "because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome." Upon complaint in any of these or like cases, the consular officer must appoint fit persons "to examine into the causes of complaint," as also into the condition of the vessel, and whatever is on board, and to receive any other proof.[1]

Duty of examiners; no authority to order a sale.

514. The inspectors are to report what defects and deficiencies exist; also whether, in their opinion, "the vessel was sent to sea unsuitably provided in any important or essential particular by neglect or design," and if they find any complaint "well founded," what ought to be done "to put the vessel in order for the continuance of her voyage." They have no authority to report a sale; the crew have no authority to ask a sale; this act gives no authority to the consular officer to order a sale of the vessel.[2]

Object of the act.

515. This act has not deprived owners and masters of vessels of the right to consult their own interests in selling or not selling; it has not subjected vessels to the orders of sale by consuls, because vessels have in their voyages sprung a leak and put into the near-

[1] Opinions of the Attorneys General, vol. vi. p. 622, et seq. [2] Ibid.

est port for safety. It is intended to redress the first complaints of the crews of American vessels in foreign ports against being compelled to risk their lives in vessels about to go to sea in an unsuitable or unsafe condition; to hear and redress the just complaints of mariners against being exposed to peril by the neglect or design of masters and owners or by their mistakes or accidental omissions.

Terms of passage of seamen, and duties of shipmasters.

516. By the fourth section of the act of February 28, 1803, all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are required and enjoined to take on board their ships or vessels, at the request of the consular officers, such American seamen as may be found in their districts respectively, and to transport them to the port in the United States to which such ships or vessels may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed upon between the said masters and consular officers. And the said seamen shall, if able, be bound to duty on board such ships or vessels according to their several abilities.[1]

Passage money; how paid.

517. To enable the master of the vessel to obtain the payment specified, the consular officer will give him a certificate, stating the names of the seamen placed on board, and the amount to be paid for their passage; on which, upon the arrival of the vessel in a port of the United States, an endorsement must be made by the collector of the customs at such port, stating that such seamen have arrived in said vessel in his district. When the certificate so endorsed is received at the Treasury Department, the amount will be paid to its holder.

[1] Statutes at Large, vol. ii. p. 204.

518. No master or captain of any ship or vessel is obliged to take a greater number than two men to every one hundred tons burden of the said ship or vessel on any one voyage.

Limitation of number of passenger seamen.

519. It is further provided, that if any such captain or master shall refuse the same on the request or order of the consular officer, such captain or master shall forfeit and pay the sum of one hundred dollars for each mariner or seaman so refused, to be recovered for the benefit of the United States in any court of competent jurisdiction.

Penalty for refusing to take seamen.

520. The certificate of any such consular officer, given under his hand and official seal, shall be *prima facie* evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty aforesaid.

A consular certificate to be evidence in court.

521. The act does not impose the duty of transportation upon every American vessel found in a foreign port. For obvious reasons, such a requirement might, under many circumstances, operate oppressively upon masters and owners. But the provision is limited in its application to such vessels found in a foreign port as shall belong to citizens of the United States, and as *shall be bound to some port thereof;* and it does not apply to vessels bound to another foreign port, and *thence* to some port of the United States; such a construction would apply the provisions of the act to every vessel belonging to citizens of the United States, *wherever bound,* if destined ultimately to return home. The act does not require that masters of vessels should transport destitute seamen, except in cases in which such vessels are bound *direct* to some port in the United States.

Construction of the act in relation to the destination of vessels.

522. The consular officer is the exclusive judge, in

A consular officer to decide in what vessels to ship seamen.

such cases, of the ship in which he will send destitute American seamen to the United States under the conditions named above.[1]

Entries to be made in cases of discharge.

523. Whenever a mariner is discharged by a consular officer, an official entry thereof shall be made upon the list of the crew and the shipping articles.

Entries to be made when seamen are to be shipped.

524. Whenever any master shall ship a mariner in a foreign port, he is required forthwith to take the list of his crew and the duplicate of the shipping articles to the consular officer at that port, who will make the proper entries thereon, setting forth the contract, and describing the person of the mariner; and thereupon the bond originally given for the return of the men shall embrace each person so shipped.[2]

Penalty for not complying with certain legal requirements.

525. It is provided by the nineteenth section of the act approved July 20, 1840, that if any master of a vessel shall proceed on a foreign voyage without the documents required by the first and second sections of the act, or refuse to produce them when required, or to perform the duties imposed by the said act, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, and shall, in addition thereto, be liable to pay a fine of one hundred dollars for each and every offence, to be recovered by any person suing therefor in any court of the United States in the district where such delinquent may reside or be found.

Masters required to apply to consular officers for the performance of official services.

526. By the twenty-eighth section of the act of August 18, 1856, it is provided, that it shall be the duty of every master and commander of a ship or vessel of the United States, whenever he shall have

[1] Opinions of the Attorneys General, vol. iv. p. 186.
[2] Statutes at Large, vol. v. p. 395.

occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fee shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers as may then be officially residing at the consulate or commercial agency, if any there be where such service shall be required, to perform such service; and the said master or commander shall pay to the consular officer such fees as shall be allowed for such service by the tariff of fees prescribed by the President, and if any such master or commander shall omit so to do, he shall be liable to the United States for the amount of the fees lawfully chargeable for such services, as though the said services had been performed by such officer.

Ships' papers to be retained in certain contingencies.

527. All consular officers are authorized and required to retain in their possession the papers of ships and vessels deposited with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.[1]

[1] Statutes at Large, vol. xi. p. 63.

CHAPTER XXVI.

DUTIES OF CONSULAR OFFICERS IN RELATION TO SEAMEN OF THE UNITED STATES.

Relief of seamen.

528. By the fourth section of the act of February 28, 1803, it is made the duty of consular officers to provide for American mariners and seamen who may be found destitute within their districts sufficient subsistence and passage to the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give; and it also provides for the manner in which such mariners are to be transported to the United States.[1]

Relief and discharge of Seamen.

What seamen are to be relieved.

529. In order that consuls may understand what seamen are embraced within the provisions of the several acts of Congress relative to the relief of destitute seamen, the payment of extra wages in case of discharges from vessels, and the passage of destitute seamen to the United States, they are instructed that all seamen who are citizens of the United States, except such as are regularly shipped in foreign vessels, and all foreigners regularly shipped in American vessels *at any port in the United States,*

[1] Statutes at Large, vol. ii. p. 204.

are to be regarded as American seamen and citizens within the provisions of the said acts.[1]

530. The relief to be provided includes board, lodging, and clothing, also medical attendance, when necessary; all to be on the most reasonable scale consistent with the comfort and proper support of the individual. Kind of relief.

531. Seamen applying for relief must be examined touching the manner of their being left destitute, and the name of the vessel, and her master, on board of which they last shipped, and the time and place, and cause of discharge; and if it shall appear from such examination that they have been discharged from any American vessel contrary to the provisions of the third section of the act of February 28, 1803, or of any other provisions of the said act or other laws of the United States, in every such case it shall be the duty of the consular officer to report the facts to the Department of State, with such other information as may enable it to cause prosecution to be instituted for such breach of the laws, taking care to designate the places at which the necessary witnesses may be found. Examination of seamen.

532. Every consular officer is required to keep a detailed list of all mariners discharged by him, in accordance with the prescribed form, (No. 16,) specifying their names and the names of the vessels from which they were discharged, and the payments, if any, afterwards made on account of each, and to make quarterly official returns of the said list to the Fifth Auditor of the Treasury. List of seamen discharged and relieved to be kept.

533. In all cases of relief afforded, whether the seamen who have received it be returned to the Account to be kept of sums expended in relieving seamen.

[1] See decision of Judge Minot, late Fifth Auditor. MS.

United States or not, an exact account must be furnished, in the returns made by a consular officer, of the name of the individual, and of the ship, her master, owner, and the port to which she belonged, together with the sum expended, supported by vouchers, where, from the nature of the case, they can be procured.

Entry to be made on crew list and shipping articles of seamen discharged.

534. Every consular officer of the United States is required to make an official entry of every discharge which he may grant on the list of the crew and shipping articles of the vessel from which any mariners shall be discharged; specifying the payment, if any, which has been required in each case. (See Form No. 41.)

Liability of shipmasters for tonnage duty in certain cases.

535. By the act of March 1, 1817,[1] American vessels, on arrival from foreign ports, are subject to a tonnage duty of fifty cents per ton, unless the officers and two-thirds of the crew are, for the whole voyage, American citizens. Whenever application is made by the master of an American vessel for the discharge of a seaman, he being an American citizen, the consular officer will be careful to remind the said master that the consular certificate of the discharge will not exempt his vessel from the payment of the tonnage duty incurred as above. The only exemption provided by law is in cases of sickness, death, desertion, or being made prisoners of war, which must be respectively certified by a consular officer of the United States. (See Form No. 42.) The attention of consular officers is specially called to the liability which may thus be incurred, the Treasury Department having no power to remit the penalty.[2]

Duty of consular officers in discharging American seamen.

[1] Statutes at Large, vol. iii. p. 352.

[2] Decisions of the Treasury Department, No. 63, edition of 1856, p. 77.

536. Whenever application is made to a consular officer for the discharge of a seaman, he will be guided by the provisions of the twenty-sixth section of the act of August 18, 1856, and the two following sections of these Instructions.[1]

Application for discharge of seamen.

537. Consular officers are specially instructed, that if they discharge any seaman or mariner, and neglect to require the payment of the extra wages required to be paid in such case by the act of February 28, 1803, or that of July 20, 1840, so far as those acts remain in force under the act of August 18, 1856, and to collect the same, they are accountable to the government of the United States for the full amount of its share of such wages, and to such seaman or mariner to the full amount of his share thereof. If any seaman or mariner shall, after his discharge, incur any expense for board or other necessaries at the port or place of his discharge before shipping again, such expense shall be paid out of the share of the three months' extra wages to which he is entitled, which shall be retained for that purpose, and after the payment of all expenses thus incurred, the remaining part of such share only is to be paid over to him when he shall have engaged on board of some vessel. In cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, no payment of extra wages is required.

Consular officers accountable for the extra wages.

Expenditures for the relief of a seaman to be deducted from his share of the extra wages.

Extra wages; when not to be required.

538. Consular officers are not to discharge a seaman for slight or venial offences, and certainly not for a single offence unless of a very aggravated character. If the charge be negligence, drunkenness, disobedience, or dishonesty, the question should be, whether the misconduct was of such a degree as to

Reasonable cause required for the discharge of a seaman.

[1] Statutes at Large, vol. xi. p. 62.

show an habitual inattention to or unfitness for duty, having always in view the particular station of the party and the nature of his duty. If the allegation be that the seaman is a dangerous person, from a spirit of insubordination, or hostility to the master, it has been held that the master must show that the danger is such as would affect the mind of a man of ordinary firmness. But even in cases of aggravated offences, or of a continued course of conduct which would justify the discharge of a seaman, if he repents and offers amends, the principle which is always operating in his favor against all kinds of forfeiture, with very rare exceptions, intervenes to restore him to his rights, and he is ordinarily entitled to be received again on board. To deprive a mariner of the benefit of this rule, it should appear that the misconduct amounts to a radical disqualification, as dishonesty and habitual drunkenness in a steward; or that the party is really dangerous to the peace and safety of the ship. These principles receive additional force from the general policy of the laws of the United States, which discountenances the discharge of seamen in foreign ports. The various enactments in respect to destitute seamen sufficiently show the parental solicitude of the government for the preservation and protection of the seamen of the country.[1]

Extra wages; when to be paid to seamen.

539. The two months' extra wages are not to be paid in any case, unless the person so discharged has engaged on board of some vessel as a seaman, or to return to the United States, and does not previous to his sailing become a charge upon the consulate; in the latter case only the residue of the two months' extra wages is to be paid to him.

[1] Curtis's Merchant Seamen, pp. 149, 150; Ware's R. pp. 65, 325.

540. If no occasion offers of a direct return, an engagement on board of an American vessel ultimately to return will be sufficient; or if no such vessel offers, the seaman will be entitled to his two months' wages on his shipping and departure for an intermediate, convenient port, provided the consular officer has incurred no expenses which will absorb a part or the whole thereof; a statement of the circumstances should at the same time be transmitted to the consular officer at such intermediate port.

Shipment of seamen to an intermediate port.

Insubordination and Mutiny.

541. Great care must be taken, in all cases of accusations against mariners by their officers, not to confound a simple and casual disobedience of orders with the crime of mutiny, which has in some cases been made in order to justify a discharge of seamen in a foreign port contrary to the provisions of the act. In this, as in all other cases, consular officers are particularly instructed, while on the one hand they are to support the masters of vessels in the exercise of their proper authority, on the other they are equally required to discourage and prevent all oppression of seamen by their officers.

Disobedience of mariners on shipboard.

542. For the purpose of "discountenancing insubordination," when the fact is brought within their official notice, consular officers may request, if they find it absolutely necessary, the assistance of the local police to arrest and secure the offender, and cause him to be put on board of a ship to be sent home to the United States, or to be temporarily imprisoned, by permission, within the consular district.

Services of local police.

543. Consuls are not to incur the great expense of sending a seaman to the United States for trial for a

petty offence, nor in any case, unless the crime with which the seaman is charged is of an aggravated character and the evidence is such as to render it probable that a conviction can be obtained.

Insubordination.

544. Any deliberate disobedience, on the part of a mariner, of any justifiable order of his commander in relation to the business of his ship, without regard to the tone or manner of the order, is an act of insubordination subject to immediate punishment by the commander and to the consular jurisdiction intended to be given by the act of 1840.[1] Every shipmaster is bound, however, to treat his men with humanity; and this obligation is not the less imperative because stipulations, which may look like restrictions on his power, are not inserted in the shipping articles; and a seaman who is subjected to cruel and oppressive treatment on the part of the master may abandon the vessel before the termination of the voyage, without subjecting himself to a forfeiture of wages.[2]

Limitation of the power of a shipmaster.

Insubordination to be discountenanced.

545. Consular officers are required to discountenance insubordination by every means in their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner.

546. Before calling upon the local officers for assistance, a consul should make himself thoroughly familiar with the provisions of the treaties existing between the United States and the country where he resides. In some countries the right is granted by treaty stipulation, in others it is simply a matter of

[1] Statutes at Large, vol. v. p. 295.
[2] Ware's R. pp. 104, 115.

courtesy, and the consul's course should be directed by the circumstances of each case.

547. Consular officers have no right, however, to exercise any authority on board of a vessel, if the officer in command is obeyed by his crew, or by a sufficient number of them to enable him to navigate the vessel; but the lawful authority of the captain or master of a vessel is to be maintained, if necessary, by the aid of the consular officer. Stringent measures should not be resorted to, unless with great caution, as they are only justified by the strongest necessity, and may subject the consul to prosecution in the United States.[1]

Limitation of the power of consular officers on shipboard.

548. If American seamen arrive in an American vessel at any port within the jurisdiction of a United States consul, and such seamen refuse to do duty, and the vessel is bound to the United States, they should be confined on shipboard by the captain, and not be discharged by the consular officer, unless, in the exercise of his best discretion and judgment, the case is one that imperatively requires the adoption of such a course; in which event, the consular officer should make it clearly evident in his report to the Department. If the captain is able to navigate his ship, and proceed to the United States with them all on board, he should do so; but in case the vessel would probably be endangered thereby, he should deliver so many to the consular officer, to be sent home for trial, as will relieve him from any reasonable fear of a revolt among the crew or the capture of the vessel.

Mutiny.

549. If the vessel is outward bound, and the crew mutiny, the mutineers should be delivered to the con-

Mutineers to be sent to the United States.

[1] Ware's R. pp. 104, 115.

sular officer to be sent home; and, until such an opportunity offers, he should take the best care of them he can, with the aid of the local authority, which may be requested by the consular officer in cases of great emergency. It is to be remembered, as above stated, that such aid cannot be demanded as of right, except in cases of treaty stipulation to that effect.

Duty of consular officer in cases of piracy or mutiny.

550. Whenever piracy, mutiny, or any other grave offence against the laws of the United States, shall have been committed on board of any vessel of the United States coming into the consular district, it is the duty of the consular officer, after taking the depositions necessary to establish the facts, to apply to the local authorities for means to secure the offenders while they remain in port; he will provide the means to send them, without delay, to the United States for trial; and in all such cases, where the vessel on board of which the offence was committed is not bound to the United States, he is directed to procure two of the principal witnesses to be sent home with the accused; and he will, at the same time, transmit certified copies of all the depositions he has taken in relation to the offence, an exact detail of all its circumstances, and such information as may be necessary to secure the conviction of the offenders, to the United States attorney of the district to which the prisoners are sent, and also a brief synopsis of the same to the Department. The consular officer will be especially careful to specify particularly the names and residences of all the witnesses whose testimony may be necessary at the trial; and he will, if possible, in all cases send the offenders to the port in the United States from which the vessel cleared.

551. He will also be careful not to subject the

government to the great expense incurred by the transportation of seamen to the United States, and by their imprisonment and trial in this country, unless the facts are of such gravity and importance as to warrant the adoption of such a course.

Desertion.[1]

552. In countries with which the United States have stipulations by treaty or convention to authorize it, or where it is permitted by the local authorities, consular officers may apprehend deserters as fugitives from justice, and imprison them until required by their commander.

Deserters to be apprehended.

553. It is required by the twenty-fifth section of the act of August 18, 1856, that whenever any seaman or mariner of any vessel of the United States shall desert such vessel, the master or commander of the vessel shall note the fact and date of the desertion on the list of the crew, and the same shall be officially authenticated at the port or place of the consulate or commercial agency first visited by the vessel after such desertion, if it shall have occurred in a foreign country. (See Form No. 43.)

Duty in case of the desertion of a seaman.

554. Desertion is a grave offence; in the sense of the maritime law, it has been defined to be a quitting of the ship and her service, not only without leave, and against the duty of the party, but with an intent not again to return to the ship's duty. There is thus a distinction taken between a mere absence without leave and a final quitting of the ship with the intention of not returning to it. The former absence is punishable with greater or less forfeiture of wages; the latter is the offence which incurs the forfeiture of

Desertion defined.

[1] Abbot on Shipping, sections 174, 175, 644, 652.

all wages. It is desertion wantonly to neglect or refuse to rejoin the ship, after an absence with leave, when ordered to return; but it is not desertion, when a mariner, through excess of indulgence, overstays his time of leave, and when he has not refused or neglected to comply with an order to return; it is not desertion to leave the ship on account of cruel and oppressive treatment; or for want of sufficient provisions in port, when they can be procured by the master; or when the voyage is altered in the articles without consent.[1]

Examination of seamen in case of desertion.

555. It having been found that the power vested in consuls by the fourth section of the act of February 28, 1803, has, in many instances, been so injudiciously exercised, that a provision for the relief of mariners and seamen of the United States who may be found destitute within their districts has often become a premium for desertion, consular officers are hereby specially enjoined, in the case of every deserter who may apply for the benefits of this act, to ascertain clearly and satisfactorily that he is justly entitled to the same, and that his leaving the ship was caused by improper or cruel treatment, or otherwise justifiable.

When three months' pay is to be required in case of desertion.

556. In all cases where deserters are apprehended, the consular officer should inquire into the facts; and, if satisfied that the desertion was caused by unusual or cruel treatment, the mariner may be discharged, and receive, in addition to his wages to the time of the discharge, three months' pay; and the officer discharging him must enter upon the crew list and shipping articles the cause of discharge, and the particu-

[1] Curtis's Merchant Seamen, pp. 129, 131; Sumner's R. vol. i. p. 373; Ware's R. p. 313.

lars in which the cruelty or unusual treatment consisted, and subscribe his name thereto officially.

557. The benefits of the said act are sometimes imperatively invoked, as in the case of a mariner driven from his ship by intolerable treatment—treatment proceeding, sometimes from reckless cruelty, and sometimes, as is believed, with a design to make the seaman leave his vessel when his services have ceased to be of value for the completion of the cruise. But, in meeting the requisition of such unfortunate seamen, consular officers are cautioned so to use the funds appropriated by Congress as not to encourage sailors to break their shipping engagements from a confidence that in so doing they do not forfeit their claim to relief and protection at the hands of consular officers. Justifiable desertion.

Wages of Seamen.[1]

558. The general rule in regard to the wages of seamen is, that such wages on board of merchant ships are payable out of the earnings for freight; and if no freight is earned, by reason of the perils of the sea or capture by the enemy, and not by the fault or neglect of the master or owner, no wages are due. General rule respecting wages of seamen.

559. The maxim that "freight is the mother of wages" is a formula which, though it has obtained general currency, is to be carefully scrutinized in its application. A distinction is to be made between those accidents by which the voyage is interrupted and the freight lost, without the fault of the owner or master, and other causes arising from the acts of the owner or master.[2] Formula.

[1] Abbot on Shipping, sec. 619, et seq.
[2] Curtis's Merchant Seamen, p. 270, et seq.

Seamen; when entitled to wages.

560. If the voyage or freight be lost by the negligence, fraud, or misconduct of the owner or master, or voluntarily abandoned by them; if the owner has contracted for freight upon terms or contingencies differing from the general rules of the maritime law; or, if he has chartered his ship to take a freight at a foreign port, and none is to be earned on the outward voyage—in all these cases the mariner is entitled to wages, notwithstanding no freight has accrued.

Wages when freight is or might be earned.

561. Where freight is, *or might be*, earned, wages are due for the full period of employment in the ship's service, whether the freight is actually received by the owner or not. No private contract between the owner and the shipper, with regard to freight, can affect the right to wages.

Wages as affected by shipwreck on the outward voyage.

562. If the vessel and cargo are lost on the outward voyage, before any freight is earned, and no part of either is saved by the crew, the wages of the seamen are also lost, and the original contract therefor is annulled, but the advance wages are not in such case to be returned.

Wages when the vessel is wrecked on the homeward voyage.

563. If the vessel is lost on the homeward voyage, and freight has been, or might have been, by the general principles of law, earned to an outward port, the wages for the outward voyage to that port are deemed to have been earned. No abatement is to be made from the wages in case of the freight being partially lost or diminished by maritime accidents or perils.

Whole wages; when to be paid.

564. If freight is earned, whether it be large or small, the whole wages, which are deemed to have been earned, are to be paid without deduction.

565. When the vessel is lost between intermediate

ports, the wages are to be calculated up to the last port of the delivery or receipt of cargo, and for half the time that the ship lies there.

When the vessel is lost between intermediate ports.

566. Where a voyage is divided by various ports of delivery, a claim for proportional wages attaches at each of such ports of delivery upon safe arrival; and all attempts to evade or invade that title, by renunciations obtained from the mariners without any consideration, by collateral bonds, or by contracts inserted in the body of the shipping articles, not usual, not fully explained to these illiterate and inexperienced persons, are ineffectual and void.

Proportional wages.

Protection and Care of Seamen.

567. It is provided by the sixteenth section of the act of July 20, 1840, that the crew of any vessel shall have full liberty to lay their complaints before the consular officer in any foreign port, and shall in no respect be restrained or hindered therein by the master or any officer, unless some sufficient and valid objection exist against their landing; in which case, if any mariner desire to see the consular officer, it shall be the duty of the master to acquaint him with it forthwith, stating the reason why the mariner is not permitted to land, and that he is desired to come on board; whereupon it shall be the duty of such officer to repair on board and inquire into the causes of the complaint, and proceed therein as the act directs.

Complaints of seamen to be heard.

568. One essential object of the consular appointment is the protection of American mariners—a class of our fellow-citizens whose habits of life require a kind guardianship of their persons and interests in foreign countries, but at the same time a strict vigi-

Consular protection of seamen.

lance over their conduct. The law makes it the duty of American consular officers to provide, at the public expense, for all mariners and seamen of the United States merchant marine[1] who may be found destitute within their respective districts. It is no bar to their relief that they have been left abandoned by the wreck of their vessel, or otherwise, on a foreign shore. They are still "mariners and seamen of the United States," and the circumstance of their destitution entitles them to all the benefits and protection provided by the fourth section of the act of February 28, 1803. They are within the words of the act, and they are within all the reasons of humanity and policy which dictated its provisions.[2]

Rules of Mr. Jefferson and Mr. Webster touching seamen.

569. The principles which have heretofore been established in regard to the protection, as distinguished from the relief of seamen, are plain and well settled. The rule laid down by the distinguished person who first held the office of Secretary of State, Mr. Jefferson, was, "that the vessel being American, shall be evidence that the seamen on board are such;" and, fifty years afterwards, it was restated with no less precision by one of the most eminent of American statesmen, "that in every regularly documented merchant vessel, the crew who navigate it will find their protection in the flag which is over them."[3]

[1] Opinions of the Attorneys General, vol. iii. p. 683.

[2] Opinion of the Attorney General, May 12, 1852.

[3] Mr. Webster to Lord Ashburton, Works of Daniel Webster, vol. vi. p. 325.

CHAPTER XXVII.

THE DUTIES OF CONSULAR OFFICERS IN RELATION TO WRECKS.

570. By the third section of the act of Congress of April 14, 1792, consular officers, in cases where ships or vessels of the United States shall be stranded on the coast of their respective consulates, are required, as far as the laws of the country permit, to take proper measures, as well for saving such ships or vessels, their cargoes, and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved, with the inventory or inventories, must, after deducting therefrom the expense, be delivered to the owner or owners. But no consular officer is permitted to take possession of any such goods, wares, merchandise, or other property, when the master, owner, or consignee thereof is present, or capable of taking possession of the same.[1]

Duties of consular officers in cases of wrecks.

571. In the execution of the duties prescribed by this part of the act, every consular officer is instructed that all vessels, parts of vessels, and any portion of their cargo, belonging to citizens of the United States, saved, and brought into the consular jurisdiction after being wrecked, or in consequence

Course of proceeding.

[1] Statutes at Large, vol. i. p. 225.

of any disaster at sea, are to be proceeded with in the same manner as if the vessel had stranded within the consular jurisdiction; and if salvage be claimed and allowed by a competent tribunal, the remainder of the effects, or the proceeds thereof, if sold, shall be disposed of in the same manner as is directed in the twenty-eighth chapter of these Instructions respecting the estates of persons dying intestate; provided, in the case of salvage, that the court deciding the same will permit the consular officer to receive the effects and remainder of the property after the salvage is paid.

Owner's interest to be protected.

572. In some countries (as in Sweden) chartered companies have the privilege of taking possession of all property wrecked; in others, it may be vested in particular magistrates or officers. In such cases the consular officer is not to interfere with the legal function of the proper officer, but he may ask leave, as the representative of the absent master or owner, or as his official adviser if he be present, to assist at the taking of the inventory, the sale, and all other proceedings in relation to the property. It is his duty to protect the interest of the owner, and, if his reasonable requests are not complied with, to take the necessary evidence of the facts in the case, and transmit it to the Department of State.

Wrecks of American vessels to be reported.

573. When any American vessel is wrecked within his jurisdiction, the consular officer is to give immediate notice to the Department of State, naming the vessel and her owners or master, and giving in detail as many of the circumstances attending the loss of the property as may be known at the time.

Disposition of property.

574. When there is no impediment from the laws of the country, all proceedings in relation to property

wrecked are to be the same as those prescribed in the case of property of intestates, and so also with regard to the taking possession and disposing of whatever effects, whether wrecked, abandoned, or otherwise unrepresented within a consulate, belonging to any citizen of the United States.[1]

575. A consular officer is allowed to institute proceedings for the recovery of property, in behalf of citizens of his own country, although they may be unknown to him; yet restitution cannot be decreed without specific proof of the individual proprietary interest.[2]

Legal proceedings may be instituted.

576. Whenever a consul or commercial agent shall receive authentic intelligence of the rescue from shipwreck of seamen or citizens of the United States by the master or crew of any foreign vessel, he will, without delay, transmit to the Department a statement of the facts, including the full name of the master of the foreign vessel and of the country or port to which he may belong, and also the names of such of the crew as may have especially distinguished themselves. This statement will be laid before the President, who is expressly authorized by Congress to make suitable acknowledgments to the masters and crews of foreign vessels for their services in rescuing from shipwreck citizens and vessels of the United States.[3] The consular officer will state in his report the names of the passengers and crew who may have perished, and also of the survivors, and what disposition has been made of them.

Rescue of American seamen by foreign vessels to be reported to Department of State.

577. He will promptly render such assistance as may be in his power to his shipwrecked countrymen,

Assistance to be rendered.

[1] Toler *v.* White, Ware, p. 227; Henshaw's Manual, p. 113.
[2] Wheaton, vol. x. p. 67; Mason's R. vol. i. p. 21.
[3] Statutes at Large, vol. xi. p. 28.

and institute, whenever it is practicable, energetic proceedings for the protection of their property; but this instruction gives no authority to incur any expense therefor in the expectation of its being defrayed by the Department of State; the appropriation for the relief and protection of American seamen in foreign countries which is made by Congress not being applicable to such purpose. Whenever it is necessary for the safety of the property, the consular officer will apply to the local authorities for assistance.

Papers to be preserved.

578. He will carefully collect and preserve all the papers and documents relating to the ship or its cargo, or to the passengers, and deliver them to the parties to whom they belong, or to the representatives of such parties; or, in the event of their death or non-appearance, he will transmit them to the Department of State.

CHAPTER XXVIII.

DUTIES OF CONSULAR OFFICERS IN RELATION TO THE ESTATES OF INTESTATES.

579. THE duties of a consular officer respecting the property of Americans relate mostly to the personal estates of citizens of the United States who die intestate within his consular district, or to wrecks or other abandoned property belonging to them, for which no owner or legal representative appears.[1]

Duties of a consular officer touching unrepresented American property.

580. For the information of the representatives of the deceased, the consular officer is directed to cause a notice of the death of every citizen of the United States dying intestate within his consular district, to be published in some newspaper of the country, and also to forward a like notice to the Department of State, that the same may be published in the State to which the deceased belonged; he will also communicate any information which he may have obtained respecting the residence of the family and friends of the deceased.

Notice to be published of the death of American citizens.

581. By the second clause of the second section of the act concerning consular officers, approved April 14, 1792, whenever a citizen of the United States, other than seamen belonging to any ship or vessel, shall die within the consular district, it is made the duty of the consular officer to take posses-

Perishable property to be sold, and under what circumstances.

[1] Henshaw's Manual, p. 101.

sion of his effects, and to sell at public auction such part of them as may be of a perishable nature, and such further part as may be necessary for the payment of the debts of the deceased.[1] In order to execute this power, the following are prerequisites: that the laws of the country permit such administration, or that it be stipulated by treaty or convention; or that the person has died without any legal representative, partner in trade, or trustee, to take care of his effects.

Inventory to be taken.

582. An inventory must be taken, in the first instance, of all the effects of the deceased, with the assistance of two merchants of the United States, or, for want of them, of any other two respectable persons. This inventory must be entered in the proper consular record book.

Selection of appraisers.

583. In performing this branch of the consular duty, careful attention is requisite. Merchants of respectable standing are to be selected as the assistants of the consular officer. Although appraisement is not mentioned in the act, consular officers are instructed to have the apparent value of every article affixed to it.

Evidences of debt to be included in the inventory.

584. If among the papers of the deceased are found any evidences of debts, although they may not be due in the consular district, yet they are to be placed in the inventory for the information and security of individuals in the United States who are interested.

Commercial and letter books to be certified.

585. The commercial books of the deceased are to be placed in the inventory, and particularly described, the number of pages that each of the said books contains being mentioned; and the consular officer will

[1] Statutes at Large, vol. i. p. 255.

place a certificate, signed by himself, at the beginning and the end of each book, in such manner as to prevent any addition being made to them. The letter books of the deceased are comprehended in the term commercial books.

586. The consular officer will also collect the debts due to the estate of the deceased in the country where he died, and, with the amount thus collected, pay the debts which the deceased may have there contracted; but he is to pay no claim, not reduced to a judgment, for damages on account of any wrongful act alleged to have been done by the deceased.[1]

What credits to be collected, and what debts to be paid.

587. If among the effects of the deceased (the word "effects" being one of very comprehensive signification, and embracing property of every description, inclusive of debts due) are found certificates of *foreign* stocks, loans, or other property, the consular officer is directed to charge on the amount thereof such commissions, if any, as are authorized in the consular tariff of fees on the settlement of estates of American citizens; also to report the amount in his quarterly statement of fees, and, if a salaried consular officer, to hold the same subject to the order of the Treasury Department; but he is not to embrace in the inventory such personal estate as the deceased may have left in the United States, or beyond the consular district. The consular officer, from the necessity of the case, acts as the collector of the effects within the consulate; the provisions of law do not extend his power beyond this necessity. The personal estate of the deceased in the United States remains to be administered by the legal repre-

Signification of "effects."

Disposition of personal prop-

[1] Sturgis v. Slacum, 18 Pick. p. 36.

erty at home and abroad, and limitation of the consular power.

sentative at home, according to the laws of the State or district to which the deceased belonged. Under the provisions of the second section of the act above mentioned, the consular officer is "to take possession of the personal estate left by any citizen of the United States," where "the laws of the (foreign) country permit," which, of course, must be the personal estate left within the jurisdiction of such foreign country. He is only to collect "the debts due to the deceased in the country where he died." In like manner, he is not to pay the debts due from the deceased at home, but only such debts as "he shall have *there* (in the foreign country) contracted."[1]

Sale of perishable property.

588. The consular officer is further directed to sell at auction such part of the estate as shall be of a perishable nature.[2] All sales of the property of the deceased must be at "auction, after reasonable public notice." In the execution of this duty, the consular officer is instructed to give the same previous notice that is directed by the laws of the country for the judicial sale of property in execution, and at some public place; but whether it be required in judicial sales or not, the notice must be given in at least one of the newspapers of the place, if any be printed there, both in English and in the language of the country. No property shall be sold as being of a perishable nature, until it has been viewed by two respectable merchants, and by them certified to be of that description.

Sale of other property to pay debts.

589. If the proceeds of such sales, with the funds of the estate on hand, should not be sufficient to liquidate the legal claims against the estate, the con-

[1] Instructions to Consul Walsh, MS., September 2, 1845.

[2] Statutes at Large, vol. i. p. 255.

sular officer is authorized to dispose of any other portion of the property which may be necessary for that purpose.

590. In one year after the death of the intestate, the consular officer is also directed, by the second section of the act aforesaid, to transmit the remainder of the estate (after paying the debts and other lawful charges) to the Treasury of the United States, in money, to be holden in trust for the legal representatives; but if at any time before such transmission the legal representative of the deceased appear, and demand the effects in the hands of the consular officer, the latter shall deliver them up, the fees being paid, and shall cease his proceedings.

Proceeds, when to be remitted.

591. In the execution of the duty prescribed by the preceding section, the consular officer is instructed to keep a regular account of all moneys received, as well of effects sold as of credits collected, and all sums expended, taking duplicate receipts, expressing on what account the sums are paid, and numbering them regularly; one of the said duplicates is to be kept by the consular officer, and the other delivered to the representative of the deceased, or transmitted to the Treasury Department, if no representative appear.

Account to be kept.

592. He must also enter on his consular books a regular account between himself and the estate of the deceased, in which he shall enter to his own debit all the moneys and effects that come into his hands; and to his credit all the payments he may make; and, finally, the remainder that he may deliver over or remit, so as to close the account. A copy of this account shall be delivered to the representative of the deceased, or transmitted to the Treasury Department, as the case may be.

Account to be sent to the Treasury Department.

Final settlement.

593. As soon as an estate shall be finally settled so far as the consular officer is concerned, he shall give notice to the Department of State, designating the amount in money, or the effects, as the case may be, which have been delivered to the representative of the deceased.

Opposing claimants.

594. If there should be several parties, each claiming to be the representative of the deceased, and demanding the effects, the consular officer must direct the parties to determine their rights before the proper judicial tribunals.

Delivery of property.

595. The consular officer should at all times be prepared, and he is expressly required, to deliver over the effects and papers of the estate in his possession at any stage of the proceedings, after deducting the fees and expenses, to any legal representative of the deceased, or appointed trustee, who presents unquestionable evidence of authority to act as such.

Statute requirements relating to consular duties affecting property.

596. It is provided by the twenty-ninth section of the act of August eighteen, eighteen hundred and fifty-six, that if any citizen of the United States dying abroad shall, by any lawful testamentary disposition, leave special directions for the custody and management, by the consular officer of the port or place where he shall die, of the personal property of which he shall die possessed in the country, as contemplated by the act entitled "An act concerning consuls and vice consuls," approved April fourteen, seventeen hundred and ninety-two, it shall be the duty of such officer, so far as the law of the country will permit, strictly to observe such directions; and if any American citizen so dying shall, by any lawful testamentary disposition, have appointed any other person or persons than such officer to take charge of

and manage such property, it shall be the duty of the consular officer, whenever required by the person or persons so appointed, to give his official aid in whatever way may be necessary to facilitate the proceedings in the lawful execution of the trust; and, so far as the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country where such citizen shall die; to this end it shall be the duty of the consular officer to place his official seal upon all or any of the personal property or effects of the deceased, and to break and remove such seal, whenever he may be required by such person or persons, but not otherwise.

Cautionary injunctions.

597. In the execution of these provisions, every consular officer will exercise discretion and care; for these injunctions must be understood with the necessary legal reservations. It is obvious that a will, to have legal effect, must be a *proved* will; and a will perfectly valid in form may be null because obtained by unlawful influence.[1] In the performance of such acts regarding the estate as the consular officer may, by virtue of the act of April fourteen, seventeen hundred and ninety-two, lawfully perform, namely, taking the custody of the property, preserving it from waste, collecting credits, paying local debts, and selling the *personal* estate for transmission to the Treasury, he must, in the absence or non-appearance of the executor, co-partner, or other "legal representative" of the deceased, observe such directions as the latter may have given him as to such mere provisional acts of consular intervention in the estate. Except in the mere temporary settlement,

[1] Williams on Exec. vol. i. pp. 42, 43.

collection, and custody of the property of a decedent, no agent appointed by will or otherwise, and no public officer empowered by act of Congress, can safely venture to deal with a decedent's estate; for either that estate has been disposed of by lawful testamentary disposition to devisees or legatees, or it has become the property of the creditors of the decedent, or it has descended upon persons legally entitled by marriage or kinship; and, in either case, if it be personal property, it must pass through the hands of a duly appointed and judicially recognized executor or administrator.

Duty and responsibility of consular officers touching property.

598. A consular officer is, by the law of nations and by statute, the provisional conservator of the property within his consulate belonging to his countrymen deceased therein. This general duty of consular officers is fully recognized by the recent act regulating the diplomatic and consular systems of the United States.[1] It behooves every consular officer, however, to consider well, before he presumes to follow, *in anything beyond the acts of custody, settlement, and collection*, prescribed by the act of April fourteen, seventeen hundred and ninety-two, any directions of a decedent not possessed in law of the force of a "testamentary disposition," or directions of any agent of the deceased, however nominated, unless that agent be the duly appointed executor or administrator. Otherwise, the consular officer may be called to account by some creditor of the deceased, or by a lawfully appointed executor of his, or by his family and heirs-at-law.

Extent of consular authority

599. In short, the consul should bear constantly in mind, that he cannot *as consul* administer on the

[1] Statutes at Large, vol. xi. p. 63.

estate, nor as consul aid any other person in so administering, without *judicial* authorization; and that the whole extent of his consular authority is to guard and collect the assets of a decedent, and to transmit them to the United States, or to aid others in so guarding, collecting, and transmitting them, to be disposed of therein pursuant to the law of the decedent's State.[1]

Touching property.

600. If the property of the decedent be real estate—the immovable property of the civil law—then its disposition depends altogether on the laws of the place, unless there be treaty stipulations to the contrary, or the succession consist of personal estate exclusively. The local authorities are alone competent to determine questions of inheritance and succession.

Disposition of real estate.

601. As to movables, or personal effects, then, also, unless the contrary be stipulated by treaty, the *administration* of the estate of a decedent is primarily a question of the local jurisdiction, and a consular officer can intervene only so far as the local law may permit, though the distribution of the estate will not of necessity be governed by the local law.

Administration of personal effects.

602. Every consular officer of the United States will remember that he may intervene by way of advice, or in the sense of surveillance, but not otherwise *as a consular officer*, and of right.

603. Thus, if the decedent, being a citizen of the United States, leaves in a foreign country a minor heir, a consular officer may intervene to see that he has a proper guardian to secure his interest in the succession.

Minor heir.

604. If the decedent leaves a will intended to

Safe keeping of will.

[1] Opinions of the Attorneys General, vol. vii. p. 274.

operate in the United States, it is the right of the consular officer and his duty, if the circumstances require it, that is, in the absence of adult heirs on the spot, to see to the safe keeping of the will, and its transmission to the parties entitled.

Extent of jurisdiction.

605. As to the extent of the country to which the consular officer's faculty of superintendence reaches in matters of succession, that of course depends primarily on the instructions which he receives from the Department of State and the tenor of his *exequatur*.[1]

Force of local law.

606. The legislative acts of the United States, mentioned in the foregoing part of this chapter, proceed on the assumption that American consular officers in foreign countries will collect and remit the assets of deceased Americans. Their authority to do this will depend, of course, on the law of the foreign country; if permitted by that law, and so far as permitted, the consul may do it, but not otherwise, nor further, unless allowed by treaty. And so it is with respect to foreign consuls in the States of the Union.

Litigated questions and conflicting claims.

607. It seems very clear, that if any contentious question arises, as if there be debts due to the estate of the decedent, or conflicting claims upon it, there can be no settlement of the estate by the consul; it can be administered only by due appointment of the local authority.

Cases involving no dispute.

608. But if there be no litigious matter involved, or if a traveller or other transient person die with personal effects in hand, the consul may well take possession of the same for transmission to the decedent's country.

Treaty of Utrecht.

609. The true relations of the question are suffi-

[1] Opinions of the Attorneys General.

ciently illustrated by the tenor of an old article of a treaty between England and Spain, repeated by the treaty of Utrecht; according to which it is stipulated that the respective foreign consuls may inventory the effects of a deceased countryman, and remit them, without intervention of any local tribunal.[1]

Spanish law of November 20, 1724.

610. The difficulty of complying with this stipulation soon became apparent in Spain; in consequence of which the law of November 20, 1724, was passed, providing that the local authority shall make duplicate inventory, and shall hear and adjudge all contested matters.[2]

Discussion between England and Spain.

611. The same difficulty must of course have existed in England. Consuls, in one country or another, raised the question from time to time, until, in 1839 and 1840, by undergoing almost simultaneous discussion in Madrid and in London, by the claim of a British consul in Spain to exercise complete jurisdiction in the matter, which the Spanish government refused; and the claim of a Spanish consul in England, which the British government refused—it was at length settled, to the effect, that, notwithstanding the treaty, the consular right on both sides must be limited to the inventory of the effects found in the dwelling of the deceased, subject always to the intervention of the local authorities, in case of any contested right on the part of third persons.[3]

General rule.

612. But the general rule undoubtedly in all the countries of Christendom is, that the local authority has power to take the inventory if it will, the functions of the consular officer being then limited to

[1] Miltitz des Consulats á l'Étranger, partie ii. pp. 408, 414, 425.
[2] Novisima Recopiliacion, lib. vi. tit. 13, l. 4.
[3] Requelme, Derecho Internacional, tome i. p. 422.

the right of assisting in behalf of the absent legal representatives of the deceased.[1]

Authority of foreign consuls in the United States as to questions of succession.

613. Such, and such only, except where special stipulations of treaty intervene to change the rule, is the admitted authority of foreign consuls as to questions of succession in the several States of the Union.[2]

[1] Santos, Traité du Consulat, tome i. p. 21; tome ii. note 52.

[2] De Clercq et de Vallat, Guide des Consulats, p. 686; Opinions of the Attorneys General.

CHAPTER XXIX.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO THE PASSENGER ACT.

614. It is made the duty of the Secretary of State, by the second paragraph of the eighteenth section of the act approved March 3, 1855, to give notice, in the ports of Europe and elsewhere, of the provisions of that act to regulate the carriage of passengers in steamships and other vessels.[1]

Act of March 3, 1855.

615. The special attention of United States consular officers is called to this act, and also to the instructions which have been issued by the Treasury Department in reference to it.[2] It will be observed that, whilst the law prescribes certain spaces of clear superficial feet of deck to each passenger, (other than cabin passengers,) it moreover fixes a maximum, irrespective of such spaces, by restricting the number of passengers allowed to be carried in any such vessel to the proportion of one to every two tons of the vessel's tonnage measurement, excluding children under the age of one year in the computation, and computing two children over one and under eight years of age as one passenger. It follows, that though a vessel might afford clear spaces of the dimensions indicated for a greater number of passen-

Space to be allowed to each passenger.

Number of passengers restricted.

Computation in regard to children.

[1] Statutes at Large, vol. x. p. 715; Johnson and Reddall's Manual, Passengers and Passenger Ships.

[2] General Regulations of the Treasury Department.

gers than one to every two tons of her tonnage measurement, yet if the number shall exceed that allowed by her tonnage measurement the penalties imposed by the law would attach; or if her tonnage measurement should allow a greater number of passengers than according to the clear spaces prescribed by law she could carry, yet if the number shall exceed that allowed by the clear spaces prescribed by law the penalties imposed by the law would equally attach. In other words, the one rule, as to the number of passengers a vessel is entitled to carry, is a limitation upon the other. The tonnage of each vessel, according to custom-house measurement, must, therefore, be ascertained, as well as the measurement of the spaces allotted to passengers, in order to determine the number of passengers she is entitled to carry.

Penalty; when incurred.

Mode of determining the number of passengers allowed.

616. In order to determine the number of passengers a vessel is entitled to carry in accordance with the spaces prescribed by this act, the height between decks must be measured, not from the bottom edge of the carlings or deck beams, but from the under surface of the upper deck, to the upper surface of the floor below; and no space shall be considered available for passengers that has not, when measured in this manner, the height called for by the law, as the case may be; nor shall any space in the vessel of a less width than four feet be measured; provided, however, if the vessel shall, in accordance with the provisions of the first section of this act, carry any portion of her cargo, or any other article or articles, on any of the decks, cabins, or other places appropriated for the use of passengers, in lockers or enclosures prepared for the purpose, the height be-

tween decks shall be measured from the under surface of the upper deck to the upper surface of said lockers or enclosed spaces, which shall be deemed and taken to be the deck or platform from which measurement shall be made for all the purposes of this act, and the spaces occupied by said lockers or enclosed spaces shall be deducted from the spaces allowable for the use of passengers.

For example: the spaces on the main and poop decks or platforms, and in the deck houses, if any there be, will be 16 by 6 = 96 cubic feet; lower deck, 18 by 6 = 108 cubic feet; two-deck vessels, 14 by 7½ = 105 cubic feet. **Example.**

617. The encumbering by merchandise or stores, not the personal baggage of the passengers, except in lockers or enclosures prepared for the purpose, of any part of the space occupied by the passengers, will vitiate the whole space, unless the part so encumbered be separated from that so occupied by a substantial bulkhead. **Encumbering of space by merchandise, etc.**

618. The deck or platform must be of a permanent nature, and impervious to the water. **Deck.**

619. It is deemed sufficient only further to call particular attention to the first, second, sixth, tenth, eleventh, fourteenth, fifteenth, sixteenth and seventeenth sections of this act, in which certain provisions, differing from the provisions of existing laws, have been enacted, and to state that all the requirements of said sections must be strictly enforced. **Attention called to certain sections of the act.**

620. Consular officers will not omit to report immediately to the Department of State any violation of the provisions of this act by the masters of vessels bound to any port in the United States or any Territory thereof. **Violation of the act to be reported.**

Shipment of paupers and criminals to be reported.

621. Consular officers are likewise required, in cases of the intended shipment of paupers, or pardoned criminals, to the United States, to give timely notice of the fact, both to the Department of State and to the collector of customs of the port to which the vessel having them on board may be bound, furnishing the names of the parties, a description of their persons, the name of the vessel, and the date of sailing, in order that proper steps may be taken for the enforcement of such police regulations as may have been adopted by the several States upon the subject.

CHAPTER XXX.

DUTIES OF CONSULS GENERAL AND CONSULS IN RELATION TO THE GRANTING OF PASSPORTS AND CERTIFICATES.

Act of August 18, 1856.

Issue of passports.

622. By the twenty-third section of the act of August 18, 1856, the Secretary of State is authorized to grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe, for and on behalf of the United States, and no other person shall grant, issue, or verify any such passport; nor shall any passport be granted or issued to or verified for any other persons than citizens of the United States; nor shall any (such) charge be made for more than one such verification in any foreign country; and if any person acting or claiming to act in any office or capacity under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport, or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification; or if any consular officer who shall be authorized to grant, issue, or verify passports, shall knowingly and wilfully grant, issue, or verify any such passport to or for any person not a citizen

of the United States, the person so offending shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be imprisoned not exceeding one year or fined in a sum not to exceed five hundred dollars, or both, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody. It is likewise made the duty of all persons who shall be authorized, pursuant to the provisions of the act, to grant, issue, or verify passports, to make return of the same to the Secretary of State; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport.

Passports; by and to whom issued.

623. From the foregoing provisions of the act it will be seen that passports can only be issued by the Secretary of State, and such diplomatic and consular officers of the United States in foreign countries as he may expressly authorize, and they can be granted to citizens of the United States only. As passports granted by the Secretary of State secure to the bearers facilities from foreign governments not accorded to those issued by diplomatic officers, consuls general, or consuls, it will always be to the interest of travellers to procure their passports before leaving the United States, and this course is earnestly recommended by the Department of State.

Expense of passports.

624. Under the provisions of the act to provide internal revenue to support the government and to pay interest on the public debt, approved July 1, 1862,[1] it is required that for every passport issued from the office of the Secretary of State, or by any minister or

[1] See Statutes at Large, vol. xii. p. 472.

consul of the United States, the sum of three dollars is to be paid; that sum is consequently to be paid on the issue of each and every passport. At the close of each quarter every consul will transmit to the Secretary of the Treasury a statement, copied from the passport book, agreeably to Form No. 135, of the passports issued during the preceding quarter, showing the number of each passport, the date of issue, the name of the individual to whom issued, and the amount paid therefor. The aggregate amount received by each salaried consul for passports will be charged to him on the books of the Treasury, and must be brought to the credit of the United States in the adjustment of his quarterly accounts for compensation. In the case of consuls included in schedule B or C, the amount must be credited to the government in their respective accounts for relief of seamen or miscellaneous expenses. If the consul is at a seaport it is to be credited in the former, if at an inland place the amount is to be credited in the account for miscellaneous expenses.

Quarterly report.

625. In any country where there is a diplomatic representative, no consul general or consul is authorized, without special permission, to issue passports, except in the absence of such representative from the place of his legation.

When consuls general are prohibited from issuing passports.

626. Whenever he may be so absent, authority is given to consuls general and consuls only, to issue passports; but in all cases the said consuls general and consuls must report to the Department of State the names of the persons to whom passports have been issued by them, together with the evidence of their being citizens of the United States, and a copy of the same report must be forwarded to the legation

When passports may be issued by a consul general or a consul.

of the United States upon the resumption of his duties by the diplomatic representative to whom they are subordinate. In case there should be no diplomatic representative accredited to the country in which a consul general or consul may reside, then these officers are authorized to grant passports, having regard to the Instructions to Consular Officers in reference thereto; they will transmit, in all cases, to the Department of State the information in regard to citizenship required by this section.

Issue of passports, and the fee therefor.

627. Whenever a foreign government shall require the *visa* of a passport of any citizen of the United States, it shall be given by the consular officer of the United States at the place where it is demanded, and he shall, for each passport so *visaed*, collect the fee of one dollar prescribed to be paid, noting on the passport that this has been done; and no charge shall thereafter be made by any officer of the United States for any *visa* of that passport in the same country.[1]

Nature and description of a passport.

628. Passports are granted upon the ground of international courtesy, and as affording evidence to the diplomatic and other agents in foreign countries that the bearer thereof is a citizen of the United States, and entitled to full protection as such.[2] A passport, in proper form, must contain a description of the bearer, with his signature; it must also request all whom it may concern to permit the bearer thereof, being a citizen of the United States, safely and freely to pass, and, in case of need, to give him all lawful aid and protection while so doing. It must be signed by the diplomatic representative, consul general, or consul, and sealed with the seal of the

[1] Statutes at Large, vol. xi. p. 60.

[2] Johnson & Reddall's Manual, edition of 1855, p. 69.

legation or consulate. Passports should be numbered, commencing with No. 1, and so continuing consecutively till the end of the incumbent's term of office. For a proper form of a passport, see Form No. 46.

Passports issued to be reported.

629. Consuls general and consuls are instructed to transmit the name and description of every person to whom a passport has been issued by them, to the Department, with the evidence on which it is granted, in accordance with Form No. 47.

Conditions for the issue of a passport to a native citizen.

630. Consuls general and consuls are expressly instructed, that, when an application is made for a passport by a native citizen of the United States, before granting it, the applicant must file in the consulate an affidavit stating that fact, and also his age and place of birth; this must be signed and sworn to by himself and one other citizen of the United States named therein, to whom he is personally known, and to the best of whose knowledge and belief the declaration made by him is true.

Naturalized citizens.

631. If the applicant be a naturalized citizen, a passport can only be granted upon his exhibiting a certificate of naturalization, or a certified copy thereof; an authenticated copy of which must be transmitted by the consul general or consul to the Department of State.

Passports may include the family of the applicant.

632. When the applicant is accompanied by his wife, children, or servants, or by females under his protection, it will be sufficient to state the names and ages of such persons and their relationship to the applicant.

Cautionary injunctions.

633. Consuls general and consuls are instructed to exercise the utmost care and diligence in seeing that no passport is granted without clear evidence that the applicant is entitled to it as an American

citizen. They are not to grant passports simply upon *papers* issued by State or corporate authorities or notaries public, or upon certificates of citizenship given by such authorities, as the United States consulates are not furnished with official information either in regard to their appointments, or to their signatures and seals of office.

Penalty for the issue of a passport to an alien.

634. A passport or other paper granted by a consul, certifying that an alien, knowing him or her to be such, is a citizen of the United States,[1] is an offence punishable by a fine not exceeding one thousand dollars, to which the President will always add deprivation of office.

Certificates.

Issue of certificates.

635. Great care must be exercised by consular officers in granting certificates respecting the property of aliens. The giving of a certificate that property belonging to aliens is the property of citizens of the United States, by a consular officer who knows the fact to be otherwise, is an offence by which a high penalty is incurred, the punishment being a fine not exceeding ten thousand dollars and imprisonment not exceeding three years. Consular officers, therefore, in all such cases, will require such evidence as will show clearly that they have good reason to believe the truth of the facts they certify.

Penalty incurred.

Certificates for the benefit of drawback.

636. By the revenue laws of the United States, consular officers are authorized to give certificates of the landing of merchandise, to obtain the benefit of drawback. As great frauds upon the revenue have sometimes been committed by obtaining certificates without a due examination of the articles, consuls are instructed to give no such certificates

[1] Statutes at Large, vol. ii. p. 205.

without personal inspection or full proof. Authority is also given by the same laws to certify invoices of goods shipped for the United States; but the shipper is entitled to include in one invoice all the goods he may ship by the same vessel.

Verification of invoices.

637. On all subjects relating to the revenue, particular instructions will be given from time to time by the Secretary of the Treasury, which will be equally obligatory upon consular officers as if they had proceeded from this Department. The special attention of all consular officers is directed to the General Regulations of the Treasury Department, and, so far as they relate to their duties, the strict observance of them is enjoined.

Attention to be given to the instructions of the Secretary of the Treasury.

CHAPTER XXXI.

ATTENDANCE OF CONSULAR OFFICERS AS WITNESSES IN COURT.

Evidence of consular officers in judicial proceedings.

638. By the second article of the consular convention between the United States and France, of February twenty-three, eighteen hundred and fifty-three, it is stipulated that consular officers shall never be compelled to appear as witnesses before the courts. When any declaration for judicial purposes, or deposition, is to be received from them in the administration of justice, they shall be invited in writing to appear in court, and if unable to do so, their testimony shall be requested in writing, or be taken orally at their dwellings.[1] By provisions in some of our treaties with other powers, the above privilege may be claimed by them for their consuls resident in the United States.

Duty of consular officers to appear and give testimony on invitation.

639. Though United States consuls in France are not subject to compulsory process for the purpose of being brought into court as witnesses, yet it is their duty, on invitation, to appear and give their testimony unless necessarily prevented. They have no right, on account of their official position, or disinclination or personal inconvenience, to refuse compliance with such invitation. Business engagements will not be regarded as a valid excuse, unless they be

[1] Statutes at Large, vol. x. p. 993.

of such a character that interruption would necessarily result in a serious injury to our government or citizens.

640. If the testimony of American consular officers is required for the proper administration of justice in a foreign country, it ought to be made available, except under extraordinary circumstances, for that purpose, and the government of the United States expects they will be careful to throw no obstacles in the way of obtaining it.

No obstacles to be interposed by consular officers in obtaining testimony.

641. Should an American consular officer, to whom the exemption from compulsory process is given by the consular treaty above referred to, or any other treaty, refuse, for what he may deem a good cause, to comply with an invitation to appear in court, or before a proper authority, to give testimony, he is directed forthwith to communicate the fact of his refusal to the Department of State, and to state clearly and fully the reasons for such refusal. A refusal, without good cause therefor, will be regarded as an act of disrespect toward the government within whose jurisdiction he resides, and as a sufficient reason for his removal.

Duty of a consular officer after a refusal to appear and give testimony.

Consequences of a refusal without good cause.

CHAPTER XXXII.

CONSULAR REPORTS AND RETURNS.

Foreign commercial regulations to be laid before Congress.

642. By an act of Congress approved August 16, 1842, it is made the duty of the Secretary of State to lay before Congress, annually, at the commencement of its session, in a compendious form, all such changes and modifications in the commercial systems of other nations, whether by treaties, duties on imports and exports, or other regulations, as shall have come to the knowledge of the Department.[1]

Other commercial information to be communicated.

643. This act was so amended by an act approved August 18, 1856, relating to foreign regulations of commerce, as to make it the duty of the Secretary of State to lay before Congress, as a part of said report, all *other* commercial information communicated to the Department by consular and diplomatic agents of the government abroad, or contained in the official publications of other governments, which should be deemed sufficiently important.[2]

Consular officers required to transmit commercial information.

644. To enable the Secretary of State to make such report, it is declared to be the duty of consuls and commercial agents in foreign countries to procure and transmit to the Department of State authentic commercial information respecting said countries, of such character and in such manner and form, and at such times as may, from time to time, be prescribed by the Department.

[1] Statutes at Large, vol. v. p. 507.

[2] Ibid. vol. xi. p. 139.

645. It is also made the duty of the Secretary of State to specify in the report the names of any of the said officers who may have been remiss in their duty enjoined by the said act.

Names of consular officers remiss in their duty to be reported to Congress.

646. By the twenty-second section of the act regulating the diplomatic and consular systems of the United States, it is made the duty of the Secretary of State to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the Constitution or any law of the United States, in relation to the duties of all diplomatic and consular officers, the transaction of their business, the rendering of accounts and returns, the payment of compensation, the safe keeping of the archives and public property in the hands of all such officers, the communication of information, and the procurement and transmission of the products of the arts, sciences, manufactures, agriculture, and commerce, from time to time, as he may think conducive to the public interests; and all such officers are required to conform to such regulations, orders, and instructions. He is likewise required to publish official notifications, from time to time, of such commercial information communicated to him by such diplomatic and consular officers as he may deem important to the public interests, and to report to Congress, at least once in each year, a synopsis of so much of the information on all subjects which shall be so communicated to him as he may deem valuable for public information.

Secretary of State required to prescribe regulations for the government of diplomatic and consular officers.

Information received from government agents to be published, and also to be reported to Congress.

Reports to be made to the Secretary of State.

647. Consular officers will therefore transmit, as soon as they are published, statements of all changes

Character of information required.

in the commercial systems of the governments to which they are accredited, copies of all commercial treaties, regulations, light-house notices, revenue laws, acts and regulations respecting warehouses, tonnage duties, and port dues, all tariffs and modifications thereof, and all enactments, decrees, royal orders, or proclamations which in any manner affect the commercial, agricultural, mining, or other important interests of the United States. All despatches communicating information of this character must be endorsed "commercial information," and be strictly confined to this subject. If the information is contained in printed newspapers, circulars, pamphlets, or public documents, two copies must be sent.

Endorsement of commercial despatches.

Annual report of consular officers; information required.

648. All consular officers will forward to the Department of State, at the close of each year, ending September thirty, so that the information can be communicated to Congress at its session immediately thereafter, a report on the trade of the consular districts in which they respectively reside during the preceding year, specifying the articles of import and export, the countries which supply the former and receive the latter, the comparative increase or decrease in the amounts of the same, and the causes in both cases for either; the general regulations of trade and their effects, the average market prices within the year of the staples of export and import, and the average rates of freight to the United States. They will also designate articles prohibited to be imported into their consular districts, whether from the place of their growth or production or from other places, specifying what changes have occurred since their last reports; and also all privileges of importation or restrictions thereon, if such there be, and to

what vessels they apply, and all differences in duties on articles imported in foreign or national vessels; all tonnage duties and other port dues, and all warehouse and sanitary regulations, and those relating to entry or clearance, where such exist and have been subjected to modification since their last reports. They will also communicate detailed information touching the employment, in their consular districts, of the capital of our citizens, whether employed in industrial, agricultural, scientific, or commercial pursuits; they will transmit, in like manner, tabular or other statements touching the consumption of the staple products of the United States as well as of other countries; the amount of those articles imported into such districts in American vessels, and the amount of foreign tonnage employed in such trade.

Character of information to be communicated.

649. They will communicate any useful and interesting information relating to agriculture, manufactures, population, and public works. In all that relates to scientific discoveries, to progress in the useful arts, and to general statistics in foreign countries, consular officers are expected to communicate freely and frequently with the Department; and to note all events occurring within their consular districts which affect beneficially or otherwise the navigation and commerce of the United States; the establishment of new branches of industry, the increase or decline of those before established, and communicate all the information which they may be enabled to obtain calculated to benefit our commerce and other interests, and the best means of removing any impediments that may have retarded their advancement.

Quarterly commercial reports.

650. All consular officers at seaports are instructed to transmit, quarterly, a report in accordance with Form No. 14, stating the number, date of arrival, class, name, and tonnage of all American vessels entering the ports at which they reside, the places where from, when and where built, where belonging and whither bound, the owner and master's names; and in relation to their cargoes, both inward and outward, where produced, where manufactured, description, quantity, and value.

Transcript of fee book.

651. All consular officers residing at seaports will transmit, quarterly, a report in accordance with Form No. 8, or, if residing at inland places, a report agreeably to Form No. 9, stating in detail the name of the party for whom any official service whatever is rendered, and also the nature of the service and the authorized fee received therefor, the name of the signer of all oaths to invoices, place and date of invoice, the kind and value of all invoices of goods, and where produced or manufactured; and in case the service is on account of an American vessel or her crew, the nature of the service rendered, and the fee received therefor. This report must be an exact transcript of the fee book, as required by the eighteenth section of the act of August eighteen, eighteen hundred and fifty-six, and the three hundred and eighty-seventh section of this volume.

Death of American citizens to be reported.

652. All consular officers will transmit, quarterly, a report embracing the names of all American citizens, whether seamen or otherwise, dying within their consulates, in accordance with Form No. 21, which exhibits the name of the individual, where from, and where belonging, and in the case of seamen, whether at sea or in port, and to what vessel belonging, the

expenses incurred, if any, value of effects, and disposition thereof.

653. Consular officers at ports will also transmit, quarterly, a statement of relief afforded to destitute seamen during the quarter, in accordance with Form No. 16, stating the names of the seamen relieved, the name of the ship, master, owner, to what port belonging, date and cause of discharge or of leaving, amount of wages received, and of wages refunded to seamen, amount expended for board, clothes, medical aid, funeral expenses, and passage.

Quarterly relief report.

Reports to the Secretary of the Treasury.

654. It is made the duty of every consular officer, by the twenty-seventh section of the act approved August eighteen, eighteen hundred and fifty-six, to furnish to the Secretary of the Treasury, as often as shall be required, the prices current of all articles of merchandise usually exported to the United States from the port or place in which he shall be located.

Prices current to be sent to the Secretary of the Treasury.

655. Consular officers, accordingly, residing at ports whence there is a regular communication with New York by steam vessels, are required to transmit regularly, for the use of the United States General Appraisers' office in New York, as often as they are printed, reports of sales or prices current of the staple articles of foreign production exported from the country of their residence to the United States, and, where practicable, the prices of merchandise generally exported. Where the communication is only by sailing vessels, the prices current will be furnished monthly. These reports are to be directed to "The United States General Appraisers, New York;" and consuls residing in Europe or Asia should further

When to be transmitted.

direct them to the care of the Despatch Agent of the Department of State of the United States at London.[1]

Currency report to be made monthly.

656. Consular officers are also requested to transmit, at least once a month, if opportunity offers, to the Secretary of State and to the Comptroller of the Treasury the rates of exchange, and also a statement of the rates at which any depreciated currency of the country in which they reside is computed in United States or Spanish dollars, or in silver or gold coins of other countries; observing in all cases of an estimate of the value of the currency in such foreign coins, that their weight and standard should be made known to the Department.

Rates of exchange to be reported monthly.

657. Consular officers will also report monthly, to the Treasury Department, the rates of exchange prevailing between the ports or places at which they reside and the following places, to wit: London, Paris, Amsterdam, and Hamburg; also New York, and other principal ports in the United States; and they will keep the Department regularly and fully advised of the course and progress of trade from the several ports of their consulates to the United States.

Quarterly report to the Secretary of the Treasury.

658. Consular officers will transmit, quarterly, information on the following points, to the Secretary of the Treasury, not only in reference to the trade of the place of their residence, but that of the neighboring country or towns with which it may be connected commercially, or through which their merchandise may be shipped to the United States:

Discounts.

First. The usual terms on which merchandise is bought and sold, whether on credit or for cash. The usual discounts allowed, either from custom or in consideration of cash payment, or from other cause;

[1] Circular of the Department of State, No. 14, June 14, 1862.

whether such discounts are uniform, and, if not, whether they vary in the same, or only on different descriptions of merchandise; and whether such discounts, or any of them, are regarded as a bonus or gratuity to the buyer for his benefit; whether he purchases for himself or ships merchandise to order and for account of others:

Bounties.

Secondly. The bounties allowed on articles exported, and for what reason, and under what circumstances; whether they are the same on exports by national or foreign vessels; if not, the difference; the rates of such bounties; and how estimated, whether on weight, measure, gauge, price, or value:

Commissions.

Thirdly. The customary charge of commissions for purchasing and shipping goods of different descriptions; the usual brokerage on the purchase or sale of merchandise; whether it is paid by the buyer or seller, or by both:

Other expenses.

Fourthly. The usual and customary expenses in detail attending the purchase and shipment of merchandise, including commissions, brokerage, export duty, dock, trade, or city dues, lighterage, porterage, labor, cost of packages, covering or embaling, cooperage, gauging, weighing, wharfage, and local imposts or taxes of any kind; which of the foregoing, or other items, are usually included in the price of the article, or become a separate charge to be paid by the shipper or purchaser.

Transportation.

659. In the case of merchandise purchased at the interior places, or in other countries having no shipping ports of their own, for shipment to foreign countries, through the ports of the consulate, the customary expenses attending the transportation from such interior places or countries to the port of ship-

ment, including all transits, exports, or import frontier duty, and every other charge up to the arrival at such port, and the ordinary expenses attending the shipment thereof.

Prices of merchandise.

660. Consular officers will forward regularly, and as often as practicable, to the general appraisers residing at New York, Boston, and San Francisco, such prices current, manufacturers' statements of prices, or merchants' printed circulars of prices, and such other general information as may be useful to appraisers in the discharge of their duties.

Other details deemed useful.

661. Consular officers will include in their several reports, in detail, information on any other points which they may think proper, in order to an ascertainment of the value of merchandise forwarded to the United States, and the assessment of the legal duties, forwarding any printed or other documents which they may think desirable that the Department should possess.

Commercial information required by Congress.

662. Increased interest in the statistics of foreign commerce, evinced by recent and repeated calls by Congress for all such information as may have come into the possession of the Department of State, has caused more than ordinary care in the preparation of instructions upon this point, which it is hoped may not be without adequate response from the consular officers of the government abroad. All information possessing interest, and which is of a public character and proper for publication, is transmitted to Congress annually by the Secretary of State, with the name and residence of the consular officer by whom it is communicated.

CHAPTER XXXIII.

DUTIES OF CONSULAR OFFICERS IN RESPECT TO AMERICAN OWNERS OF FOREIGN-BUILT VESSELS.[1]

663. INQUIRY is frequently made of the Department of State and of the Treasury, as to what documents can be issued, under the laws of the United States, to foreign-built vessels purchased and *wholly owned* by citizens of the United States, whether purchased of belligerents or neutrals during a war to which the United States are not a party, or in peace, of foreign owners, the purchase in either case being in entire good faith.

Owners of foreign-built vessels owned by American citizens.

664. Vessels so purchased and owned are entitled to the protection of the authorities and flag of the United States, as the property of American citizens, although no register, enrolment, license, or other marine documents prescribed by the laws of the United States, can be lawfully issued to such vessels.

Such vessels entitled to protection.

665. To enable, however, the owners of a vessel so circumstanced to protect their rights, if molested or questioned, a consular officer, though forbidden by law to grant any marine document or certificate of ownership, may lawfully make record of the bill of sale in his office, authenticate its validity in form and substance, and deliver to the owner a certificate to that effect; certifying, also, that the owner is a

Bill of sale to be recorded and authenticated.

[1] General Regulations of the Treasury Department.

citizen of the United States. Before granting such certificate, the consular officer will require the tonnage of the vessel to be duly ascertained in pursuance of law, and insert the same in the description of the vessel in his certificate. (See Form No. 56.) These facts, thus authenticated, if the transfer was in good faith, entitle the vessel to protection as the lawful property of a citizen of the United States; and the authentication of the bill of sale and of citizenship will be *prima facie* proof of such good faith.

Consular certificates.

666. In all cases, therefore, where the evidence of the purchase of a foreign vessel by a citizen of the United States, with proof of citizenship and of the *bona fide* character of the purchase, shall be furnished to a consular officer, he will, if the proof be satisfactory, and purchase deemed fair, record the bill of sale in his office, and deliver to the party the original, with a certificate endorsed thereon.

Disabilities of foreign-built vessels.

667. It is to be distinctly understood, however, that vessels not registered, enrolled, or licensed, under the laws of the United States, wholly owned by citizens thereof, cannot legally import goods, wares, or merchandise from foreign ports, and are subjected in the coasting trade to disabilities and exactions from which documented vessels of the United States are exempted.

When subject to forfeiture.

668. On arrival from a foreign port, such undocumented vessels, if laden with goods, wares, or merchandise, will, with their cargoes, be subjected to forfeiture. If in ballast only, or with passengers without cargo, they will be subject to a tonnage duty of one dollar per ton.

When subject to tonnage duty.

669. In the coastwise trade, such undocumented vessels, if laden with goods, wares, and merchandise

of the growth or manufacture of the United States only, (distilled spirits only excepted,) taken in within one district of the United States to be discharged in another district within the same, or in ballast, will be subjected, at every port of the United States at which they may arrive, to payment of the fees prescribed by law in the case of vessels not belonging to citizens of the United States, and to a tonnage duty of one dollar per ton. But if they have on board any articles of foreign growth or manufacture, or distilled spirits, other than sea stores, such vessels, with their tackle, apparel, furniture, and the lading found on board, will be forfeited. And the master or commander of any such vessel bound from one district in the United States to another district within the same, is required in all cases to comply with the provisions of the twenty-second and twenty-fourth sections of the coasting act of the eighteenth February, seventeen hundred and ninety-three, in regard to reports, manifests, permits, entries, and other requirements therein contained; and on neglect or refusal to comply with any of them, he will incur the penalties therein prescribed. These statute provisions apply to undocumented vessels passing from one collection district to another collection district within the United States; such vessels not being embraced within the provisions of the act of second of March, eighteen hundred and nineteen, and the eleventh section of the act of seventh of May, eighteen hundred and twenty-two, dividing the coast of the United States into certain great districts, for the better regulation of the coasting trade.

CHAPTER XXXIV.

INSTRUCTIONS TO CONSULAR OFFICERS IN THE BRITISH NORTH AMERICAN PROVINCES.

Reciprocity treaty with Great Britain.

670. UNDER the treaty of reciprocity with Great Britain, concluded the fifth June, eighteen hundred and fifty-four, the following articles are entitled to free entry into the United States:[1]

"Animals of all kinds; ashes, comprehending pot and pearl ashes; black salts and salts of ley; bags, barrels, or other original packages, containing flour, wheat, or other free product, provided the article so contained is not usually imported in bulk, and the envelope is appropriate and ordinarily used in the conveyance of such article, but where the character of the package may induce reasonable suspicion of an intent to evade the payment of the duties imposed by law, the collector is authorized to make seizure of the same, and report the facts to the Treasury Department; barley; bark of hemlock or other trees; beams, when rough hewn or sawed only; beans; boards, when rough hewn or sawed only; bran; breadstuffs of all kinds, not further manufactured than flour or meal; broom corn; burr stones, hewn or wrought, or unwrought; butter; Canada balsam, collected from a species of the pine tree, as turpentine; castoreum, a product of the beaver; cattle tails, if undressed; cheese; clapboards, if rough hewn or sawed only; coal; corn, Indian, or maize; cotton wool; dried fruits; dyestuffs; fish of all kinds, products of fish, and of all other creatures living in the water, the exemption from duty to extend to the fisheries of New-

[1] Decisions of the Treasury Department, No. 63, February 1, 1856.

foundland and Labrador; fish, wholly or partly cooked, in cans hermetically sealed; fire-wood; flax, unmanufactured; flour of all kinds; fresh meats; fruits, dried or undried; fruits, preserved, in cans hermetically sealed; furs, undressed; grain of all kinds; grindstones, hewn or wrought, or unwrought; gypsum, ground or unground; hair, on the hide or skin, or tail thereof, undressed; hemp, unmanufactured; hides, undressed; horns; horn tips; hubs for wheels, if rough hewn or sawed only; knees for vessels, do. do.; lasts, last blocks, and laths, do. do.; lard; linseed; lumber of all kinds, round, rough hewn, or sawed only; manures; marble, in its crude or unwrought state; meal of all kinds; meats, fresh, smoked, or salted; meats, wholly or partly cooked, preserved without oil or spirits, in cans hermetically sealed; middlings, (as flour;) mill feed, (as flour;) nuts; oats; oatmeal; oil, from fish; ores of metals of all kinds; palings, pickets, posts, etc., if rough hewn or sawed only; pates, or scraps of raw hides or skins; pearl and pot-ash; peas; pelts; pitch; plants; potatoes; poultry; poultry, cooked wholly or partly, preserved in cans hermetically sealed; products of fish, and all other creatures living in the water; provender, from wheat or other grain; rags; railroad ties, rough hewn or sawed only; raw hides and skins, or parts thereof; rice; rotten wood; salted meats; salts of ley and black salts, (see ashes;) sausages and sausage meat; saw-logs; scantling, rough hewn or sawed only; screenings from grain; seeds; shingles, rough hewn or sawed only; shingle bolts and shingle wood, do. do.; shipstuffs, as breadstuffs; shrubs; skins or tails, undressed; skins, or parts thereof, undressed; slate; spars, round and sawed only; spokes of wheels, if rough hewn or sawed only; stone, in its crude or unmanufactured state; tails, undressed; tallow; tar; timber of all kinds, round, rough hewn, or sawed only; tobacco and tow, unmanufactured; trees; turpentine; vegetables; vegetables, wholly or partly cooked, preserved in cans hermetically sealed; venison; wool, unmanufactured."

671. The following articles are liable to duty under the existing revenue laws:

"Axle trees for carriages; beams; bears' grease; beeswax; boards; biscuit; bread; cakes; clapboards; felloes for wheels; grease, of all kinds, except butter, tallow, and lard; gunpowder; gypsum, calcined; hay; hops; iron, in pigs and blooms; hubs for wheels; knees for vessels; laths; lasts; last blocks; lime; malt; milk; mineral water of St. Catharines; oil cake; plaster of Paris, calcined; palings; pickets; posts; railroad ties; scantlings; shingles; shingle bolts; shingle wood; spars; spokes for wheels; spirits of turpentine."

Articles of wood.

672. Articles of wood designated in the preceding section remain liable to duty under the existing tariff, if manufactured in whole or in part by planing, shaving, turning, splitting, or riving, or any process of manufacture other than rough hewing or sawing.

Affidavits to invoices.

673. On importations from the North American British provinces claiming exemption from duty under the stipulations of the reciprocity treaty, the affidavit of the owner is required as to the place of growth or production of the merchandise; and when the same is imported from a place where there is a consular officer, the claim must be accompanied by a certificate of such officer, according to Form No. 52, 53, 54, or 55, as the case may require, showing the place of growth or production.

Proof of origin.

674. When the required proof of origin is not produced at the time of entry, the merchandise may be entered and delivered to the owner or importer on due appraisement, as in case of imports subject to duty, and due execution of a bond, in double the amount of duties, with satisfactory sureties.

Entry of merchandise.

675. Due entry must be made of the several descriptions of merchandise, from the aforesaid possessions of Great Britain, entitled to be entered free of duty, in conformity with the seventh section of the

act of Congress of the tenth February, eighteen hundred and twenty, "to provide for the obtaining of accurate statements of the foreign commerce of the United States."

676. No article, though entitled to entry free of duty, can be landed without permit from the collector; and for such permit a fee of twenty cents is chargeable by law. Fee for permit.

677. The "additional duty" levied by a provision of the eighth section of the tariff act of the thirtieth July, eighteen hundred and forty-six, for under-valuation in the invoice of importations of articles from the British provinces, entered and duties paid prior to the promulgation of the proclamation of the President of the United States of the treaty of reciprocity, cannot be refunded under the provisions of said treaty, such "additional duty" being considered by the Treasury Department as in the nature of an additional impost or tax incurred by the intention to violate the revenue laws, and therefore not entitled to be placed on the same footing, in regard to the refunding of duties, with the regular duties, exclusively in view of the treaty, and of the laws enacted to carry it into effect. Additional duty for under-valuation.

678. Articles, the product or manufacture of the British provinces, shipped direct to a port in the United States from London, Havana, or any port or place other than that of their production or manufacture in one of said provinces, are not entitled to free entry under the reciprocity treaty. Indirect shipments.

679. Hudson's Bay Territory, or Prince Rupert's Land, is not comprehended among the British provinces or colonies referred to in the reciprocity treaty between the United States and Great Britain. Hudson's Bay Company.

680. Shipments of merchandise by several vessels Invoices.

cannot be embraced in a single invoice, and be covered by a single consular certificate. The merchandise shipped by each vessel must be embraced in a distinct invoice, duly verified, if on foreign account, by the oath of the owner, and authenticated by a consular certificate.

Shipments of merchandise by the way of the St. Lawrence.

681. Foreign merchandise destined for a port of the United States by way of the river St. Lawrence, is not unfrequently transhipped from the importing vessel to one or more vessels of light draught, and on arrival at the port of destination is found to be unaccompanied by the documents entitling it to entry. Where all the articles embraced in the invoice are transhipped on the St. Lawrence to a single vessel, the proper invoice must be presented on entry, together with a copy of the clearance from the foreign port of exportation of the vessel from which the transhipment took place, certified to be a true copy by the collector or other chief revenue officer of the Canadian port at which the vessel was entered. When the articles embraced in a single invoice are transhipped on the St. Lawrence to several vessels, they will be admitted to entry on the production of the proper invoice, and a statement under oath of the person or agent superintending the transhipment, describing the articles, by numbers, marks, etc., transhipped to each vessel, and stating in what invoice they are embraced, together with the certified copy of the clearance of the importing vessel, as above required.

CHAPTER XXXV.

VERIFICATION OF INVOICES.

682. THE revenue laws of the United States require two consular certificates only to invoices of foreign merchandise imported into the country, (the owners of which reside abroad)—one authenticating the invoice, the other as to the value in Spanish or American dollars of the currency in which the invoice is made out.

Consular certificates to invoices required.

683. Where consular certificates to invoices of goods destined for the United States are required, they are to be granted only by the consular officer within whose consular jurisdiction such goods have been manufactured or prepared for exportation. A practice, it is understood, has extensively prevailed of transmitting invoices to a consular officer at the port of shipment for the usual consular certificates, whose certificate must often necessarily be given without due knowledge of their accuracy or details. Thus, invoices of goods manufactured or prepared for shipment in Switzerland have sometimes heretofore been sworn to at Havre; invoices from Lyons have been verified at Marseilles; and those from the Prussian provinces of the Rhine, at the ports of Holland and Belgium. It is manifest that great abuses must spring from such a practice, the meaning and intent of the law being to require those who have an accurate knowledge of the contents of in-

Where invoices are to be verified.

voices and the prices of goods comprising the same, personally to depose to their valuation. All consular officers, therefore, are strictly enjoined to conform to this rule, and report to the Treasury Department any violation of it which may come within their knowledge.

Forms of certificates to invoices.

684. Under the provisions of the act of Congress of March first, eighteen hundred and twenty-three, the invoices of all imported goods subject to *ad valorem duty* belonging to persons not residing in the United States, must be sworn to and verified by consular certificates, according to Form No. 22 or No. 23, as the case may be; the oath must be taken by the owner or manufacturer of the goods, or a member of the firm owning or manufacturing them, and not by a clerk or other subordinate.

Magistrate's certificate to be authenticated.

685. In all cases where the oaths to invoices are not taken before the United States consul, but before some public officer duly authorized to administer oaths in the country where the goods shall have been purchased, the official certificate of such officer must be authenticated by a consular officer of the United States.

Mode of verification when there is no consular officer in the country.

686. If there be no consular officer of the United States in the country from which the merchandise shall have been imported, the authentication must be executed by a consul of a nation at the time in amity with the United States, if there be any such residing there. If there be no such consul, the authentication must be made by two respectable merchants, if any such there be, residing at the port from which the merchandise shall have been imported.

687. It is proper that the oath taken by foreigners

should be administered to them, not only in their own language, so that they may fully understand the nature and import of it, but also in the form practised in their own country, which would probably be considered by them as more solemn and of a more binding nature than if administered in a form to which they have not been accustomed.

Oaths to foreigners; how to be administered.

688. The attention of consular officers is also directed to the eighth and eleventh sections of the act of Congress of the first of March, eighteen hundred and twenty-three, in which it will be seen that a consular certificate is required in all cases of invoices of goods exported by the *manufacturers* thereof, in whole or in *part* for their account, notwithstanding another owner in part may reside in the United States. This provision of the law of 1823, there is reason to believe, has been hitherto overlooked in many instances.

What invoices are to be verified.

689. If a consular officer ascertains and has reliable evidence of the falsity of an oath, administered either by himself or by a local magistrate whose certificate he has authenticated, he should notify the Treasury Department, which will transmit to him the original invoice and oath, to be used, if deemed expedient, in a prosecution for perjury.

Duty of a consular officer in cases of perjury.

690. It is to be remarked that, by the act of March third, eighteen hundred and one, invoices of all goods imported into the United States *subjected to a duty ad valorem* are required to be "made out in the currency of the place or country from whence the importation shall be made; and shall contain a true statement of the actual cost of such goods in such foreign currency or currencies, without any respect to the value of the coins of the United States, or foreign coins which now

Currency certificate.

are, or shall be, by law, made current within the United States in such foreign place or country." Hence, invoices of free goods are not required to be made out in the currency of the country from whence the goods may be imported; but whenever invoices of such goods may be made out in the currency of the country, and said currency is depreciated, and its value not fixed by any law of the United States, a consular certificate of the value of such currency must, as before intimated, accompany the same.

Depreciated currency.

Invoices of free goods.

691. There is nothing in the law or instructions of the Treasury Department to prohibit invoices of free goods from being made out in the currency of the United States, or that of any other country where its value is fixed by our laws.

Certificate in cases of depreciated currency.

692. Invoices of ad valorem or free goods, when made out in a foreign depreciated currency, or a currency the value of which is not fixed by the laws of the United States, whether the importer or owner resides in this country or abroad, must in each case be accompanied by a consular certificate, showing the value of such currency in Spanish or United States silver dollars, according to Form No. 24.

Mode of making a consular certificate.

693. Consular officers will either make their certificate upon the invoice itself, or, when it is attached as a separate document, give such details as to the names of the shippers, consignees, vessels and captains, the nature of the merchandise, and the total amount, as will fully identify the invoice annexed, instead of giving, as sometimes heretofore, their certificates in such general terms as to admit of the deception, which the Department is informed has been practised, of substituting another invoice in place of the one for which the certificate was originally issued.

694. They are also especially enjoined to observe great caution in granting certificates, where application shall be made for the same, for former shipments which were unaccompanied by said certificates, until they are fully satisfied by the correctness of the invoice presented to them for that purpose, since the very omission of the certificates with the invoices at the time of entry is, in many cases, presumptive evidence that a fraud was intended, if not practised, upon the public revenue.

Caution to be observed in granting certificates.

695. Applications are frequently made to the Treasury Department for permission to enter merchandise where the invoices are not accompanied by the needful consular certificates in the cases where such certificates are by law required. That Department has heretofore acted with great leniency and indulgence in such cases, but experience has shown the necessity for a more rigid course in future; and, in all cases where such consular certificates should accompany the invoices, any penalty which may be incurred for want of them will be regularly enforced.

Penalty for omission of consular certificates to be enforced.

696. Consular officers, by due attention and vigilance, can do much toward checking and preventing the numerous frauds which are undoubtedly practised upon the revenue, if they will report to the collectors of the customs of the United States all those invoices where, in their opinion, under-valuation has been made, and by otherwise keeping the collectors or this Department generally and fully advised on the subject; and they are earnestly requested to do so, and to consider it one of the most important services which they can render in connection with the faithful collection of the revenue. The attention of all consular officers is specially directed to the im-

Under-valuation.

portant provisions of the seventeenth, eighteenth, and nineteenth sections of the act of July fourteen, eighteen hundred and sixty-two, in regard to the authentication of invoices.[1]

Details of invoices to be examined.

697. An erroneous impression exists with many foreign shippers of goods to the United States, that the consuls before whom the oath to invoices is either taken or verified have no power to examine the details of such invoices, but simply to verify the fact of such oath being taken before them or by an officer in authority known to them as such. This is not the fact; and consular officers are expected before verifying invoices to satisfy themselves of their correctness.

Reasonable time to be given for examination of invoices.

698. For the purpose of carrying out a particular system of revenue duties, the government of the United States requires that the accuracy of certain invoices should be ascertained and verified; and a reasonable time for consuls to accomplish that object, by an examination of such invoices, cannot be justly denied to them.

Attempted frauds on the revenue to be reported.

699. Consular officers are not supposed to be practically acquainted with the market prices or value of all merchandise within their district, or of the precise weights, tares, measures, bounties, etc., included therein; but inquiry and experience will soon enable them to render efficient aid to the revenue officers of the United States by ascertaining errors or frauds and promptly informing the Treasury Department, as well as the collector of the port to which the goods may be destined, of every instance where an exporter persists in refusing to correct his invoice, when apprised of its defects and that it will be subject to revision at the custom-houses of the United States.

[1] See also Circular No. 17 of the Department of State, August, 1862.

700. In the application of an exclusive system of *ad valorem* duties to the revenue of the United States, the Treasury Department relies with confidence upon the vigilance of consuls for the detection of any abuses that may be committed, or any unfair practices that may be supposed to exist, in regard not only to the declaration of the original cost or export value of foreign merchandise, but in all the charges, discounts, bounties, etc., incident to the business of preparing goods for the markets of the United States, as well as for their promptness in reporting all the particulars to the Secretary of the Treasury.

Vigilance to be observed by consular officers.

CHAPTER XXXVI.

TARIFF OF FEES OF UNITED STATES CONSULAR OFFICERS.

701. THE following is the rate or tariff of fees prescribed by the President to be charged by all consular officers for the services herein specified, which "shall be regarded as official services," and the fees therefor collected in American or Spanish dollars, or their equivalent.

702. At the expiration of each quarter, the statements of fees must be rendered, pursuant to Forms Nos. 8, 33, 44, and 45, of the printed Instructions, by all consular officers entitled to salaries residing at seaports, and pursuant to Forms Nos. 9 and 33, at inland places, to the Secretary of the Treasury, and the amount thereof held subject to his draft or other directions. If the consular officers are not entitled to salaries, the returns must be made to the Secretary of State.

RECEIVING AND DELIVERING SHIP'S PAPERS.

1. For receiving and delivering ship's register and papers, including consular certificates as prescribed in Forms Nos. 38 and 39, half a cent on every ton, registered measurement of the vessel for which the service is performed.

DISCHARGING OR SHIPPING SEAMEN OR MARINERS.

2. For every seaman, from one to ten, who may be discharged or shipped, including the certificates therefor attached to crew

list and shipping articles, to be paid by the master of the vessel, fifty cents; but no additional charge shall be made for any number of seamen exceeding ten, who may be discharged from or shipped between the date of the arrival and departure of the vessel.

PROTESTS, PASSPORTS, ETC.

3.	For noting marine protest	$1.00
4.	For extending marine protest	2.00
	And if it exceed two hundred words, for every additional one hundred words	1.00
5.	For issuing warrant of survey on vessels, hatches, cargo, provisions and stores, or either	1.00
6.	For a passport, including seal[1]	3.00
7.	For visaing a passport	1.00
8.	For preparing agreement of master to give increased wages to seamen, attested under seal	1.00
9.	For preparing any other official document or instrument of writing, not herein named or enumerated, if under one hundred words	1.00
	If exceeding one hundred words, for every additional hundred words	.50

FOR THE FOLLOWING CERTIFICATES, ETC.

10.	Of the deposit of a ship's register and papers, when required by custom-house authorities	.25
11.	In cases of vessels deviating from the voyage	.50
12.	When ship's register is retained *entire* in the consulate	.25
13.	For master to take home destitute American seamen	no fee.
14.	Of conduct of crew on board, in cases of refusal of duty and in cases of imprisonment, etc	.25
15.	Given to master at his own request, (for example, see Form No. 48)	.50
16.	To a seaman, of his discharge	no fee.
17.	Of appointment of new master, including oath of master	1.00
18.	Of the ownership of a vessel	.50
19.	Of decision and award, in cases of protests against masters, passengers, or crew, (for example, see Form No. 49)	2.00

[1] See Act of July 14, 1862.

20. Of roll or list of crew, when required by the captain or authorities of the port	$0.50
21. To bill of health	.50
22. To shipping articles	.50
23. Of cancelling ship's register	.50
24. To debenture certificate, including oaths of master and mate	1.25
25. To invoice, including oath[1]	1.00
26. To currency	.50
27. Of sea letter	2.00
28. Of endorsement of bottomry on ship's register	.50
29. Of ditto on payment of bottomry on ship's register	.50
30. Of ditto of new ownership on ship's register	.50

ACKNOWLEDGMENTS.

31. Of the master to bottomry bond	1.00
32. Of the merchant to assignment of bottomry bond	1.00
33. Of the vendor to a bill of sale of vessel	1.00
34. Of the master to a mortgage or mortgage bill of sale of vessel	1.00
35. Of the master to an order for payment of seamen's wages or voyages, at home, including making up order, if required	.50
36. Of one or more persons to a deed or instrument of writing	2.00
37. Of one or more persons to a power of attorney	2.00

DECLARATIONS AND OATHS.

38. Of declaration and oath of master to one or more desertions, including oaths, attached to crew list and shipping articles, each	.50
39. To one or more deaths or losses of seamen overboard at sea, including oaths, attached to crew list and shipping articles, each	.50
40. To inability to procure two-thirds of a crew of protected American seamen	.50
41. To ship's inventories or stores	.50
42. To the correctness of log-book	.50

[1] See section seventeen of the act increasing, temporarily, the duties on imports and for other purposes. Approved July 14, 1862.

43. To ship's bills and vouchers for disbursements and repairs..... $0.50

AUTHENTICATING COPIES OF PAPERS.

44. Of marine note of protest..... 1.00
45. Of extended protest..... 2.00
46. Of call, warrant, and report of survey on vessel, hatches, cargo, provisions and stores, or either, (for example, see Form No. 50)..... 1.00
47. Of inventories and letters, or either, of masters..... 1.00
48. Of account of sales of vessel, cargo, provisions and stores, or either..... 1.00
49. Of advertisement for funds on bottomry..... 1.00
50. Of advertisement of sale of vessel or cargo, provisions or stores..... 1.00

AUTHENTICATING SIGNATURES.

51. To reports of survey on vessel or cargo, provisions or stores..... 1.00
52. To estimate of repairs of vessel..... 1.00
53. To (auctioneer's) account of sales of vessel or cargo, provisions or stores..... 1.00
54. To average bonds..... 2.00
55. Of governors, judges, notaries public, custom-house and other officers..... 2.00
56. Of merchants and individuals..... 2.00
57. For any other consular certificates or services of like character not herein named or enumerated..... .50

CONSULAR ORDERS AND LETTERS.

58. To send seamen to hospital..... no fee.
59. To send seamen to prison..... .50
60. To release seamen from prison..... .50
61. To authorities or captain of the port, in cases of sinking vessels, (for example, see Form No. 51)..... .50
62. Requesting the arrest of seamen..... .50
63. For any other letter or order of like character..... .50

FILING DOCUMENTS IN CONSULATE.

64. Calls of survey on vessel, hatches, cargoes, provisions and stores, or either..... .25

65. Warrants of survey on vessels, hatches, cargoes, provisions and stores, or either..... $0.25
66. Reports of survey on vessels, hatches, cargoes, provisions and stores, or either..... .25
67. Estimate of repairs of vessel..... .25
68. Consular certificate to advertisement for funds on bottomry..... .25
69. To advertisement of sale of vessel, cargo, provisions and stores, or either..... .25
70. Inventories of vessels, cargo, provisions and stores, or either..... .25
71. Letters of master notifying consul of sale of vessel, cargo, provisions and stores, or either..... .25
72. Of master notifying auctioneer of sale of vessel, cargo, provisions and stores, or either..... .25
73. Accounts of sale of vessel, cargo, provisions and stores, or either..... .25
74. For filing any other document prepared in or out of the consulate..... .25

RECORDING DOCUMENTS.

75. Calls of survey on vessel, hatches, cargo, provisions and stores, or either; warrants and reports of ditto, ditto; estimates of repairs; certificates of consuls to advertisements for funds on bottomry, and of sale of vessel; inventories of vessel, cargo, provisions and stores; letter of master to consul notifying sale of vessel, cargo, provisions and stores, or either; letter of master to auctioneer, and account of sales of vessel, cargo, provisions and stores, or either, for every one hundred words..... .20

(As the original documents are required to be filed in the consulate, it will not be necessary to record them. Should it ever become necessary, however, to deliver up the originals, they must be recorded before delivery, the party receiving the same paying the record fee as above mentioned.)

76. Order and consular certificate to pay seamen's wages or voyages, at home..... .25
77. Certificate given to master at his own request, when required..... .25

78. Appointment of new shipmaster..... $0.25
79. Application of a citizen of the United States for a sea letter..... .25
80. Sea letter, for every one hundred words..... .20
81. Bill of sale, when required, for every one hundred words .20
82. Consul's letter to captain of port, or authorities, in cases of sinking vessels..... .25
83. Consul's certificates to shipmasters for taking home destitute American seamen..... no fee.
84. Protests of shipmasters and others, other than marine protests, for every one hundred words..... .20
85. Average bonds, when required, for every one hundred words..... .20
86. Powers of attorney, when required, for every one hundred words..... .20
87. Any other document or instrument of writing not herein named or enumerated prepared in or out of the consulate, and required to be recorded, for every one hundred words..... .20

ESTATES OF DECEASED AMERICAN CITIZENS.

88. For taking into possession the personal estate of any citizen who shall die within the limits of a consulate, inventorying, selling, and finally settling and preparing or transmitting, according to law, the balance due thereon, five per cent. on the gross amount of such estate. If part of such estate shall be delivered over before final settlement, two and one-half per cent. to be charged on the part so delivered over as is not in money, and five per cent. on the gross amount of the residue. If among the effects of the deceased are found certificates of foreign stocks, loans, or other property, two and one-half per cent. on the amount thereof. No charge will be made for placing the official seal upon the personal property or effects of such deceased citizen, or for breaking or removing the seals, when required by the person or persons referred to in section twenty-nine of the act of August eighteen, eighteen hundred and fifty-six.

MISCELLANEOUS SERVICES.

89. For consul's seal and signature to clearance from custom-house authorities..... $0.50
90. For administering oaths, not hereinbefore provided for, each..... .25
91. For consul's attendance at a shipwreck, or for the purpose of assisting a ship in distress, or of saving wrecked goods or property, over and above travelling expenses, a per diem of four dollars, whenever the consul's interposition is required by the parties interested..... 4.00
92. For attending an appraisement, where the goods or effects are under one thousand dollars in value..... 3.00
93. For attending valuation of goods of one thousand dollars and upwards in value, for every day's attendance during which the valuation continues..... 5.00
94. For attending sale of goods, if the purchase money be under one thousand dollars..... 3.00
95. For attending sale of goods, if the purchase money is one thousand dollars and upwards, for every day during which the sale continues..... 5.00
96. For attending sale of vessel, when required..... 2.00
97. For marriage certificate under the provisions of the thirty-second section of the consular judicial act of June twenty-two, eighteen hundred and sixty..... 1.00
98. For the issue of a license to a vessel clearing from a foreign port and destined to a port of the United States opened by the proclamation of the President. 5.00

AN ACT to reduce Consular fees for Vessels running to or between Foreign Ports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That American vessels running regularly by weekly or monthly trips, or otherwise, to or between foreign ports, shall not be required to pay fees to consuls for more than four trips in a year, anything in the law or regulations respecting consular fees to the contrary notwithstanding.

APPROVED August 5, 1861.

Fees for unofficial services, perquisites of the Consular Officers.

703. As the unofficial acts of a consular officer may be performed by a notary public, and as the compensation charged therefor is regarded as a perquisite of his office, the rate of such compensation may be determined either by agreement or the custom of the place, subject, however, to future instructions.

CHAPTER XXXVII.

ACTS OF CONGRESS, AND EXTRACTS THEREFROM, RELATING TO UNITED STATES CONSULAR OFFICERS.

704. For convenience of reference by United States consular officers, the more important laws, or extracts therefrom, relating to the duties of United States consuls, here follow:

Extracts from "An Act concerning consuls and vice consuls." Approved April 14, 1792.[1]

* * * * * * *

Consular officers authorized to receive protests, etc.

Sec. 2. *Be it enacted, etc.*, That they [consular officers of the United States] shall have right, in the ports or places to which they are or may be severally appointed, of receiving the protests or declarations which such captains, masters, crews, passengers, and merchants, as are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them, relative to the personal interest of any citizens of the United States; and the copies of the said acts, duly authenticated by the said consuls or vice consuls, under the seal of their consulates, respectively, shall receive faith in law equally as their originals would in all courts in the United States. It shall be their duty, where the laws of the country permit, to take possession of the personal estate left by any citizen of

Certificates to be received in courts of law.

Charge of personal estates.

[1] Statutes at Large, vol. i. p. 255. The first section of this act was repealed by the act approved July 7, 1798.

the United States, other than seamen belonging to any ship or vessel, who shall die within their consulate, leaving there no legal representative, partner in trade, or trustee by him appointed to take care of his effects; they shall inventory the same with the assistance of two merchants of the United States, or, for want of them, of any others at their choice; shall collect the debts due to the deceased in the country where he died, and pay the debts due from his estate which he shall have there contracted; shall sell at auction, after reasonable public notice, such part of the estate as shall be of a perishable nature, and such further part, if any, as shall be necessary for the payment of his debts, and at the expiration of one year from his decease, the residue; and the balance of the estate they shall transmit to the Treasury of the United States, to be holden in trust for the legal claimants. But if, at any time before such transmission, the legal representative of the deceased shall appear and demand his effects in their hands, they shall deliver them up, being paid their fees, and shall cease their proceedings.

Inventory to be taken.

Collection debts.

Perishable articles to be sold.

Proceeds to be transmitted to the Treasury.

Representative of the deceased.

For the information of the representatives of the deceased, it shall be the duty of the consul or vice consul, authorized to proceed as aforesaid in the settlement of his estate, immediately to notify his death in one of the gazettes published in the consulate, and also to the Secretary of State, that the same may be notified in the State to which the deceased shall belong; and he shall also, as soon as may be, transmit to the Secretary of State an inventory of the effects of the deceased taken as before directed.

Deaths of citizens to be published.

Inventory to be sent to Secretary of State.

SEC. 3. *And be it further enacted*, That the said consuls and vice consuls, in cases where ships or

Duty as to stranded vessels.

vessels of the United States shall be stranded on the coasts of their consulates, respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the said ships or vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved, with the inventory or inventories thereof, taken as aforesaid, shall, after deducting therefrom the expense, be delivered to the owner or owners: *Provided*, That no consul or vice consul shall have authority to take possession of any such goods, wares, merchandise, or other property, when the master, owner, or consignee thereof, is present or capable of taking possession of the same.[1]

* * * * * * *

Bond to be given.

SEC. 6. *And be it further enacted*, That every consul and vice consul shall, before they enter on the execution of their trusts, or, if already in the execution of the same, within one year from the passing of this act, or, if resident in Asia, within two years, give bond, with such sureties as shall be approved by the Secretary of State, in a sum of not less than two thousand nor more than ten thousand dollars, conditioned for the true and faithful discharge of the duties of his office according to law, and also for truly accounting for all moneys, goods, and effects, which may come into his possession by virtue of this act; and the said bond shall be lodged in the office of the Secretary of the Treasury.[2]

* * * * * * *

[1] Section fourth of this act was repealed by the thirty-third section of the act of August 18, 1856.

[2] The seventh and eighth sections of this act were repealed by the fifth section of the act of February 28, 1803.

The sixth section is modified by the second, fifth, thirteenth, and

SEC. 9. *And be it further enacted*, That the specification of certain powers and duties, in this act, to be exercised or performed by the consuls and vice consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act.

Powers defined

Extracts from "AN ACT supplementary to the 'Act concerning consuls and vice consuls,' and for the further protection of American seamen." Approved February 28, 1803.[1]

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That before a clearance be granted to any vessel bound on a foreign voyage, the master thereof shall deliver to the collector of the customs a list containing the names, places of birth and residence, and a description of the persons who compose his ship's company, to which list the oath or affirmation of the captain shall be annexed that the said list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them, and the said collector shall deliver him a certified copy thereof, for which the collector shall be entitled to receive the sum of twenty-five cents; and the said master shall moreover enter into bond, with sufficient security, in the sum of four hundred dollars, that he shall exhibit the aforesaid certified copy of the list to the first boarding officer at the first port in the United States at which he shall arrive

Crew lists to be delivered by shipmasters to collectors.

Certified copies of crew lists to be delivered by collectors to shipmasters.

Fee.

Masters to enter into bonds for what conditioned.

thirty-third sections of the act of August 18, 1856. The salary of the consuls in the Barbary States is increased, and the provisions respecting the bonds required to be given by consular officers are modified; *vice consuls* must still, as heretofore, give bonds.

[1] Statutes at Large, vol. ii. p. 203.

Seamen to be returned.

on his return thereto, and then and there also produce the persons named therein, to the said boarding officer, whose duty it shall be to examine the men with such list, and to report the same to the collector, and it shall be the duty of the collector at the said port of arrival (where the same is different from the port from which the vessel originally sailed) to transmit a copy of the list, so reported to him, to the collector of the port from which said vessel originally sailed: *Provided*, That the said bond shall not be forfeited on account of the said master not producing to the first boarding officer, as aforesaid, any of the persons contained in the said list who may be discharged in a foreign country with the consent of the consul, vice consul, commercial agent, or vice commercial agent there residing, signified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew as aforesaid; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.

Provisions in favor of ship-masters.

Proofs of persons discharged in foreign ports or persons dying, to be exhibited to collectors.

Deposit of ship's papers.

SEC. 2. *And be it enacted*, That it shall be the duty of every master or commander of a ship or vessel, belonging to citizens of the United States, who shall sail from any port of the United States after the first day of May next, on his arrival at a foreign port, to deposit his register, sea letter, and Mediterranean passport, with the consul, vice consul, commercial agent, or vice commercial agent, (if any there be at such port;) that in case of refusal or neglect of the said master or commander to deposit said papers as aforesaid, he shall forfeit and pay five hundred dollars, to be recovered by the said consul, vice consul,

Penalty for refusal.

commercial agent, or vice commercial agent, in his own name, for the benefit of the United States, in any court of competent jurisdiction; and it shall be the duty of such consul, vice consul, commercial agent, or vice commercial agent, on such master or commander producing to him a clearance from the proper officer of the port where his ship or vessel may be, to deliver to the said master or commander all of his said papers: *Provided*, Such master or commander shall have complied with the provisions contained in this act, and those of the act to which this is a supplement.[1]

When papers are to be returned.

SEC. 3. *And be it further enacted*, That whenever a ship or vessel belonging to a citizen of the United States shall be sold in a foreign country, and her company discharged, or when a seaman or mariner, a citizen of the United States, shall, with his own consent, be discharged in a foreign country, it shall be the duty of the master or commander to produce to the consul, vice consul, commercial agent, or vice commercial agent, the list of his ship's company, certified as aforesaid; and to pay to such consul, commercial agent, or vice commercial agent, for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such mariner or seaman, two-thirds thereof to be paid by such consul or commercial agent to each seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of sea-

Acts to be done upon the discharge of an American seaman in a foreign port.

Crew list to be produced.

Three months' wages to be paid, and dispositions thereof.

[1] See last clause of section twenty-eight of the act of August 18, 1856, which modifies this proviso.

men or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port; and the several sums retained for such fund shall be accounted for with the Treasury every six months by the persons receiving the same.

Seamen's fund to be accounted for.

Destitute seamen to be provided with subsistence and passage to the United States.

SEC. 4. *And be it further enacted,* That it shall be the duty of the consuls, vice consuls, commercial agents, vice commercial agents of the United States, from time to time, to provide for the mariners and seamen of the United States who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give; and that all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board their ships or vessels, at the request of the said consuls, vice consuls, commercial agents, or vice commercial agents, respectively, and to transport them to the port in the United States to which such ships or vessels may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed between the said master and consul or commercial agent. And the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels according to their several abilities: *Provided,* That no master or captain of any ship or vessel shall be obliged to take a greater number than two men to every one hundred tons burden of the said ship or vessel, on any one

When shipmasters are required to take on board destitute seamen, and the number thereof.

Terms of passage.

Seamen to do duty.

Proviso.

voyage; and if any such captain or master shall refuse the same on the request or order of the consul, vice consul, commercial agent, or vice commercial agent, such captain or master shall forfeit and pay the sum of one hundred dollars for each mariner or seaman so refused, to be recovered for the benefit of the United States in any court of competent jurisdiction. And the certificate of any such consular or commercial agent, given under his hand and official seal, shall be *prima facie* evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty aforesaid.

Penalty for refusal to take destitute seamen.

Consular certificate in evidence.

SEC. 5. *And be it further enacted,* * * * ; that the Secretary of State be authorized to reimburse the consuls, vice consuls, commercial agents, or vice commercial agents, such reasonable sums as they may heretofore have advanced for the relief of seamen, though the same should exceed the rate of twelve cents a man per diem.[1]

Consuls to be reimbursed for expenditures.

* * * * * * *

SEC. 7. *And be it further enacted,* That if any consul, vice consul, commercial agent, or vice commercial agent shall falsely and knowingly certify that property belonging to foreigners is property belonging to citizens of the United States, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for any term not exceeding three years.

Penalty for giving false certificates.

SEC. 8. *And be it further enacted,* That if any consul, vice consul, commercial agent, or vice commercial

Penalty for granting a false passport.

[1] The sixth section, and also the last eleven words of this act, are repealed by the twentieth and thirty-third sections of the act of August 18, 1856.

agent shall grant a passport or other paper certifying that any alien, knowing him or her to be such, is a citizen of the United States, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding one thousand dollars.

Powers of attorney for the transfer of stock.

SEC. 9. *And be it further enacted,* That all powers of attorney executed after the thirtieth day of June next, in a foreign country, for the transfer of any stock of the United States, or for the receipt of interest thereon, shall be verified by the certificate and seal of a consul, vice consul, commercial agent, or vice commercial agent, if any there be at the place where the same shall be executed; * * * *

AN ACT in addition to the act entitled "An act supplementary to the act concerning consuls and vice consuls," and for the further protection of American seamen. Approved February 28, 1811.

Equitable allowance for transportation of seamen to be made by Comptroller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where distressed mariners and seamen of the United States have been transported from foreign ports where there was no consul, vice consul, commercial agent, or vice commercial agent of the United States, to ports of the United States, and in all cases where they shall hereafter be so transported, there shall be allowed to the master or owner of each vessel in which they may or shall have been transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable by the Comptroller of the Treasury.[1]

[1] Statutes at Large, vol. ii. p. 651.

An Act authorizing the deposit of the papers of foreign vessels with the consul of their respective nations. Approved March 3, 1817.[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the register, or other document in lieu thereof, together with the clearance and other papers, granted by the officers of the customs to any foreign ship or vessel at her departure from the port or place from which she may have arrived, shall, previous to entry in any port of the United States, be produced to the collector with whom such entry is to be made. And it shall be the duty of the master or commander, within forty-eight hours after such entry, to deposit the said papers with the consul or vice consul of the nation to which the vessel belongs, and to deliver to the collector the certificate of such consul or vice consul that the said papers have been so deposited; and any master or commander, as aforesaid, who shall fail to comply with this regulation, shall, upon conviction thereof in any court of competent jurisdiction, be fined in a sum not less than five hundred dollars nor exceeding two thousand dollars: *Provided*, That this act shall not extend to the vessels of foreign nations in whose ports American consuls are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nation, according to the provisions of the second section of the act supplementary to the act "concerning consuls and vice consuls, and for the further protection of American seamen," passed the twenty-eighth of February, one thousand eight hundred and three.

Papers of foreign ships to be delivered to collector before entry.

Deposit of ships' papers.

Penalty for refusal.

Proviso.

[1] Statutes at Large, vol. iii. p. 362.

Papers not to be returned before clearance.

SEC. 2. *And be it further enacted,* That it shall not be lawful for any foreign consul to deliver to the master or commander of any foreign vessel the register and other papers deposited with him pursuant to the provisions of this act, until such master or commander shall produce to him a clearance in due form from the collector of the port where such vessel has been entered; and any consul offending against the provisions of this act shall, upon conviction thereof before the Supreme Court of the United States, be fined at the discretion of the court in a sum not less than five hundred dollars nor exceeding five thousand dollars.

Penalty incurred.

Extracts from "An act supplementary to and to amend an act entitled 'An act to regulate the duties on imports and tonnage,' passed second March, one thousand seven hundred and ninety-nine, and for other purposes."[1] Approved March 1, 1823.

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Invoices to be verified before entry.

SEC. 7. *Be it enacted, etc.,* That no goods, wares, or merchandise, subject to ad valorem duty, imported as aforesaid, and belonging to a person or persons not residing at the time in the United States, and who shall have actually purchased the same, shall be admitted to entry, unless the invoice be verified by the oath of the owner or one of the owners, certifying that the said goods, wares, or merchandise were actually purchased for his account, or for account of himself and partners in the said purchase; that the invoice annexed thereto contains a true and faithful account of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same; which said

Invoices to be verified.

Nature of the verification.

[1] Statutes at Large, vol. iii. p. 729.

oath shall be administered by a consul or commercial agent of the United States, or by some public officer duly authorized to administer oaths in the country where the said goods, wares, or merchandise shall have been purchased, and the same duly certified by the said consul, commercial agent, or public officer; in which latter case, such official certificate shall be authenticated by a consul or commercial agent of the United States: *Provided*, That if there be no consul or commercial agent of the United States in the country from which the said goods, wares, or merchandise shall have been imported, the authentication hereby required shall be executed by a consul of a nation at the time in amity with the United States, if there be any such residing there; and if there be no such consul in the country, the said authentication shall be made by two respectable merchants, if any such there be, residing in the port from which the said goods, wares, or merchandise shall have been imported.

Oath to be administered by consular officer or magistrate.

Consular authentication.

Proviso, when there is no consular officer.

SEC. 8. *And be it further enacted*, That no goods, wares, or merchandise, subject to ad valorem duty, imported as aforesaid, and belonging to a person or persons not residing at the time in the United States, who may not have acquired the same in the ordinary mode of bargain and sale, or belonging to a person or persons who may be the manufacturer or manufacturers, in whole or in part, of the same, shall be admitted to entry, unless the invoice thereof be verified by the oath of the owner or of one of the owners, certifying that the invoice contains a true and faithful account of the said goods, wares, or merchandise, at their fair market value at the time and place when and where the same were procured or manufactured,

Goods subject to ad valorem duty to be verified by the owner's oath.

as the case may be, and of all charges thereon; and that the said invoice contains no discounts, bounties, or drawbacks but such as have been actually allowed; which said oath shall have been duly administered and authenticated in the mode prescribed in the seventh section of this act.[1]

* * * * * * *

AN ACT to prescribe the punishments of consuls, commercial agents, and others, in certain cases. Approved March 3, 1835.

Fine and imprisonment for giving false certificates.

Be it enacted, etc., That if any consul, vice consul, commercial agent, or vice commercial agent, shall knowingly and falsely certify to any invoice, or other papers to which his certificate is by law authorized or required, he shall, on conviction thereof in any court of competent jurisdiction, forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for a term not exceeding three years, at the like discretion.[2]

AN ACT in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls.[3] Approved July, 1840.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, As follows:—

Duplicate crew list to be a fair copy.

First. The duplicate list of the crew of any vessel bound on a foreign voyage, made out pursuant to the act of February twenty-eighth, eighteen hundred and three, shall be a fair copy in one uniform handwriting, without erasure or interlineation.

Second. It shall be the duty of the owners of every

[1] Statutes at Large, vol. xii. [2] Ibid. vol. v. p. 773. [3] Ibid. p. 394.

such vessel to obtain from the collector of the customs of the district from which the clearance is made, a true and certified copy of the shipping articles, containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Fair copy of shipping articles to be obtained by owners.

Third. These documents, which shall be deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, shall be produced by the master, and laid before any consul or other commercial agent of the United States whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.

Crew list and shipping articles to be laid before consular officers.

Fourth. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, shall be deemed fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.[1]

Interlineations, erasures, etc.

* * * * * * *

Eighth. Whenever any master shall ship a mariner in a foreign port, he shall forthwith take the list of his crew and the duplicate of the shipping articles to the consul, or person who discharges the duties of the office at that port, who shall make the proper entries thereon, setting forth the contract, and describing the person of the mariner; and thereupon the bond originally given for the return of the men shall embrace each person so shipped.

Entry to be made of shipment of mariners.

[1] The fifth, sixth, and seventh sections of the act are repealed by the thirty-third section of the act of August eighteen, eighteen hundred and fifty-six.

Seamen's complaints to be heard.

Ninth. When any mariner shall complain that the voyage is continued contrary to his agreement, or that he has fulfilled his contract, the consul, or other commercial agent performing like duties, may examine into the same by an inspection of the articles of agreement; and if on the face of them he finds the complaint to be well founded, he shall discharge the mariner, if he desires it, and require of the master an advance, beyond the lawful claims of such mariner, of three months' wages, as provided in the act of February twenty-eighth, eighteen hundred and three; and in case the lawful claims of such mariner are not paid upon his discharge, the arrears shall from that time bear an interest of twenty per centum: *Provided, however*, If the consul or other commercial agent shall be satisfied the contract has expired or the voyage been protracted by circumstances beyond the control of the master, and without any design on his part to violate the articles of shipment, then he may, if he deems it just, discharge the mariner without exacting the three months' additional pay.

When and on what condition a mariner may be discharged.

Proviso.

Shipment of seamen; when void.

Tenth. All shipments of seamen made contrary to the provisions of this and other acts of Congress shall be void; and any seaman so shipped may leave the service at any time, and demand the highest rate of wages paid to any seaman shipped for the voyage, or the sum agreed to be given him at his shipment.

Deserters to be reclaimed.

Eleventh. It shall be the duty of consuls and commercial agents to reclaim deserters and discountenance insubordination by every means within their power; and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner.

Twelfth. If the first officer, or any officer and a majority of the crew, of any vessel shall make complaint in writing that she is in an unsuitable condition to go to sea, because she is leaky, or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not, or have not been during the voyage, sufficient and wholesome, thereupon, in any of these or like cases, the consul or commercial agent who may discharge any duties of a consul shall appoint two disinterested competent practical men, acquainted with maritime affairs, to examine into the causes of complaint, who shall in their report state what defects and deficiencies, if any, they find to be well founded, as well as what, in their judgment, ought to be done to put the vessel in order for the continuance of her voyage.

Surveys; when to be ordered.

Thirteenth. The inspectors so appointed shall have full power to examine the vessel and whatever is aboard of her, so far as is pertinent to their inquiry, and also to hear and receive any other proofs which the ends of justice may require; and if, upon a view of the whole proceedings, the consul or other commercial agent shall be satisfied therewith, he may approve the whole or any part of the report, and shall certify such approval, and if he dissents, shall also certify his reasons for so dissenting.

Power and duty of inspectors.

Duty of consular officer.

Fourteenth. The inspectors in their report shall also state whether, in their opinion, the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident; and in case it was by neglect or design, and the consul or other commercial agent

Report of inspectors.

Duty of consular officer.

approves of such finding, he shall discharge such of the crew as require it, each of whom shall be entitled to three months' pay, in addition to his wages to the time of discharge; but if in the opinion of the inspectors the defects or deficiencies found to exist have been the result of mistake or accident, and could not in the exercise of ordinary care have been known and provided against before the sailing of the vessel, and the master shall in a reasonable time remove or remedy the causes of complaint, then the crew shall remain and discharge their duty; otherwise, they shall, upon their request, be discharged, and receive each one month's wages in addition to the pay up to the time of discharge.

Charges for survey.

Fifteenth. The master shall pay all such reasonable charges in the premises as shall be officially certified to him under the hand of the consul or other commercial agent; but, in case the inspectors report that the complaint is without any good and sufficient cause, the master may retain from the wages of the complainants, in proportion to the pay of each, the amount of such charges, with such reasonable damages for detention on that account as the consul or other commercial agent directing the inquiry may officially certify.

Crews of vessels to have the fullest liberty to lay their complaints before the consul.

Sixteenth. The crew of any vessel shall have the fullest liberty to lay their complaints before the consul or commercial agent in any foreign port, and shall in no respect be restrained or hindered therein by the master or any officer, unless some sufficient and valid objection exist against their landing; in which case, if any mariner desire to see the consul or commercial agent, it shall be the duty of the master to acquaint him with it forthwith, stating the reason why the

mariner is not permitted to land, and that he is desired to come on board; whereupon it shall be the duty of such consul or commercial agent to repair on board and inquire into the causes of complaint, and to proceed thereon as this act directs.

Apprehension of deserters.

Seventeenth. In all cases where deserters are apprehended, the consul or commercial agent shall inquire into the facts; and if satisfied that the desertion was caused by unusual or cruel treatment, the mariner shall be discharged, and receive, in addition to his wages to the time of his discharge, three months' pay; and the officer discharging him shall enter upon the crew list and shipping articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and subscribe his name thereto officially.

Penalty incurred by consuls for neglect of duty.

Eighteenth. If any consul or commercial agent shall neglect or omit to perform, seasonably, the duties hereby imposed upon him, or shall be guilty of any malversation or abuse of power, he shall be liable to any injured person for all damage occasioned thereby; and for all malversation and corrupt conduct in office, he shall be liable to indictment, and, on conviction by any court of competent jurisdiction, shall be fined not less than one nor more than ten thousand dollars, and be imprisoned not less than one nor more than five years.

Penalty incurred by masters for violation of this act.

Nineteenth. If any master of a vessel shall proceed on a foreign voyage without the documents herein required, or refuse to produce them when required, or to perform the duties imposed by this act, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, and shall, in addition thereto, be liable to pay a fine

of one hundred dollars for each and every offence, to be recovered by any person suing therefor in any court of the United States in the district where such delinquent may reside or be found.

Violation of the act to be reported.

Twentieth. It shall be the duty of the boarding officer to report all violations of this act to the collector of the port where any vessel may arrive, and the collector shall report the same to the Secretary of the Treasury and to the attorney of the United States in his district.

* * * * * * *

AN ACT requiring foreign regulations of commerce to be laid annually before Congress.[1] Approved August 16, 1842.

Foreign regulations to be laid before Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Secretary of State to lay before Congress, annually, at the commencement of its session, in a compendious form, all such changes and modifications in the commercial systems of other nations, whether by treaties, duties on imports and exports, or other regulations, as shall have come to the knowledge of the department.

AN ACT to provide for the transportation of the mail between the United States and foreign countries, and for other purposes.[2] Approved March 3, 1845.

* * * * * * *

Postage; when to be paid by consular officers.

SEC. 6. *And be it further enacted,* That the Postmaster General, or the Secretary of State, be, and he is hereby, authorized to empower the consuls of the United States to pay the foreign postage of such let-

[1] Statutes at Large, vol. v. p. 507. [2] Ibid. pp. 749, 750.

ters, destined for the United States, as may be detained at the ports of foreign countries for the non-payment of postage; which postage shall be by the consul marked as paid by him, and the amount thereof shall be collected in the United States, as other postage, on the delivery of the letters, and repaid to said consul, or credited on his account at the State Department.

Collection and repayment of postage.

* * * * * * *

AN ACT to amend the act entitled "An act to provide for the enlistment of boys for the naval service and to extend the term of enlistment of seamen."[1] Approved February 20, 1845.

SEC. 2. *And be it further enacted*, That the commanding officer of any vessel, squadron, or fleet of the navy of the United States, when upon the high seas or in any foreign port where there is no resident consul of the United States, shall be and is hereby authorized and empowered to exercise all the powers of a consul in relation to mariners of the United States.

"AN ACT to provide for recording the conveyances of vessels and for other purposes."[2] Approved July 29, 1850.

SEC. 6. *And be it further enacted*, That the twelfth clause or section of the act entitled "An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls," approved July twentieth, eighteen hundred and forty, be so amended, as that all complaints in writing to the consuls or commercial agents as therein provided, that a vessel is unseaworthy, shall be signed by the

[1] Statutes at Large, vol. v. p. 725. [2] Ibid. vol. ix. p. 441.

first, or the second and third officers, and a majority of the crew, before the consul or commercial agent shall be authorized to notice such complaint, or proceed to appoint inspectors as therein provided.

AN ACT to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August sixteenth, eighteen hundred and forty-two, and for other purposes. Approved August 18, 1856.

Commercial information communicated by consuls, etc., to be reported to Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the changes and modifications in the commercial systems of other nations, now required by said act, it shall be the duty of the Secretary of State to lay before Congress annually, within sixty days after the commencement of each ordinary session, as a part of said report, all other commercial information communicated to the State Department by consular and diplomatic agents of this government abroad, or contained in the official publications of other governments, which he shall deem sufficiently important.

Duty of consular officers to procure such information.

SEC. 2. *And be it further enacted,* That to enable the Secretary of State to make said report, it is hereby declared to be the duty of consuls and commercial agents of the United States in foreign countries, to procure and transmit to the Department of State authentic commercial information respecting said countries, of such character, and in such manner and form, and at such times, as said department may, from time to time, prescribe; and it shall be the duty of the Secretary of State, in said annual report, to specify the names of any of said officers who may have been remiss in their duty enjoined by this act.

Names of consular officers who may have been remiss to be reported.

SEC. 3. *And be it further enacted,* That the Secretary

of State be and is hereby authorized and required to appoint one clerk, who shall have charge of statistics in said department, and shall be called "Superintendent of Statistics," and shall receive a salary of two thousand dollars per annum, and shall be allowed, as an assistant, one clerk of the third class, which clerk the Secretary of State is hereby authorized and required to appoint.

Superintendent of statistics.

Assistant.

AN ACT to regulate the diplomatic and consular systems of the United States.[1] Approved August 18, 1856.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That ambassadors, envoys extraordinary and ministers plenipotentiary, ministers resident, commissioners, chargés d'affaires, and secretaries of legation, appointed to the countries hereinafter named in schedule A, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified; that is to say, ambassadors and envoys extraordinary and ministers plenipotentiary, the full amounts specified therefor in said schedule A; ministers resident and commissioners, seventy-five per centum; chargés d'affaires, fifty per centum; and secretaries of legation, fifteen per centum of the said amounts, respectively: *Provided,* That the compensation of the secretary of the legation to China, acting as interpreter, shall be at the rate of five thousand dollars, and if not acting as such, at the rate of three thousand dollars; and that of the secretary of legation to Turkey, acting as dragoman, at the rate of three thousand dollars, and if not acting as such, at the rate of two thousand dollars, per annum.

Pay of diplomatic officers.

Pay of secretaries to legations to China and Turkey.

[1] Statutes at Large, vol. xi. p. 52.

SCHEDULE A.

Compensation of diplomatic agents.

Great Britain and France, each seventeen thousand five hundred dollars.

Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, each twelve thousand dollars.

All other countries, each ten thousand dollars.

Sub-officers of the legations at London and Paris and China and Turkey.

SEC. 2. *And be it further enacted*, That the President be and is hereby authorized to appoint, for the legations at London and Paris, respectively, an assistant secretary of legation, who shall be entitled to compensation for their services, respectively, at the rate of fifteen hundred dollars per annum; for the legation to China, an interpreter, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of five thousand dollars; and for the legation to Turkey, a dragoman, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of one thousand dollars per annum.

Pay of consuls general, consuls, and commercial agents.

SEC. 3. *And be it further enacted*, That consuls general, consuls, and commercial agents, appointed to the ports and places hereinafter specified in schedules B and C, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified in said schedules B and C; and if the President shall think proper to appoint a consul to any port or place named in the said schedules B and C for a commercial agent, instead of such commercial agent, or *vice versa*, and an appointment shall be made accordingly, the compensation for such consular officer shall be the same in any such case as that fixed for such port or place in the schedule embracing the same; and if he shall think the public

interests will be subserved by appointing to any such port or place a consul general instead of a consul or commercial agent, and an appointment shall be made accordingly, the compensation for such consul general shall be the same as that fixed for such port or place in the schedule embracing the same.

SCHEDULE B.

Schedule B.

I.—CONSULS GENERAL.

Consuls general.

BRITISH NORTH AMERICA.

Quebec, four thousand dollars.

BRITISH INDIA.

Calcutta, five thousand dollars.

EGYPT.

Alexandria, three thousand five hundred dollars.

JAPAN.

Simoda, five thousand dollars.

CUBA.

Havana, six thousand dollars.

TURKEY.

Constantinople, three thousand dollars.

HANSEATIC AND FREE CITIES.

Frankfort-on-the-Main, three thousand dollars.

II.—CONSULS.

Consuls.

GREAT BRITAIN.

Liverpool and London, each seven thousand five hundred dollars.

Melbourne, four thousand dollars.

Hong-Kong, three thousand five hundred dollars.

Glasgow, three thousand dollars.

Mauritius and Singapore, each two thousand five hundred dollars.

Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, and Turk's Island, each two thousand dollars. Prince Edward's Island, one thousand dollars.

FRANCE.

Havre, six thousand dollars.

Paris, five thousand dollars.

Marseilles, two thousand five hundred dollars.

Bordeaux, two thousand dollars.

La Rochelle and Lyons, each one thousand five hundred dollars.

RUSSIA.

Moscow, Odessa, Revel, and St. Petersburg, each two thousand dollars.

SPAIN.

Matanzas, Trinidad de Cuba, and Santiago de Cuba, each two thousand five hundred dollars.

San Juan, (Porto Rico,) two thousand dollars.

Cadiz, Malaga, and Ponce, (Porto Rico,) each one thousand five hundred dollars.

AUSTRIA.

Trieste, two thousand dollars.

Vienna, one thousand five hundred dollars.

PRUSSIA.

Aix-la-Chapelle, two thousand five hundred dollars

CHINA.

Canton and Shanghai, each four thousand dollars.
Fouchou, three thousand five hundred dollars.
Amoy and Ningpo, each three thousand dollars.

TURKEY.

Beyrut and Smyrna, each two thousand dollars.
Jerusalem, one thousand five hundred dollars.

NETHERLANDS.

Rotterdam, two thousand dollars.
Amsterdam, one thousand dollars.

BELGIUM.

Antwerp, two thousand five hundred dollars.

PORTUGAL.

Funchal and Oporto, each one thousand five hundred dollars.

DENMARK.

St. Thomas, four thousand dollars.
Elsineur, one thousand five hundred dollars.

SARDINIA.

Genoa, one thousand five hundred dollars.

SWITZERLAND.

Basle, two thousand dollars.
Geneva, one thousand five hundred dollars.

SICILIES.

Messina, Naples, and Palermo, each one thousand five hundred dollars.

SAXONY.

Leipsic, one thousand five hundred dollars.

BAVARIA.

Munich, one thousand dollars.

TUSCANY.

Leghorn, one thousand five hundred dollars.

WURTEMBURG.

Stuttgardt, one thousand dollars.

HANSEATIC AND FREE CITIES.

Bremen and Hamburg, each two thousand dollars.[1]

BARBARY STATES.

Tangier, Tripoli, and Tunis, each three thousand dollars.

BRAZIL.

Rio de Janeiro, six thousand dollars.
Pernambuco, two thousand dollars.

MEXICO.

Vera Cruz, three thousand five hundred dollars.
Acapulco, two thousand dollars.

PERU.

Callao, three thousand five hundred dollars.

CHILI.

Valparaiso, three thousand dollars.

BUENOS AYRES.

Buenos Ayres, two thousand dollars.

NICARAGUA.

San Juan del Sur, two thousand dollars.

[1] By the act of February 4, 1862, the compensation of the consul at Bremen was increased to three thousand dollars.

NEW GRANADA.

Aspinwall, two thousand five hundred dollars.
Panama, three thousand five hundred dollars.

VENEZUELA.

Laguayra, one thousand five hundred dollars.

SANDWICH ISLANDS.

Honolulu, four thousand dollars.
Lahaina, three thousand dollars.

III.—COMMERCIAL AGENTS. Commercial agents.

NICARAGUA.

San Juan del Norte, two thousand dollars.

ST. DOMINGO, (ISLAND.)

Port au Prince, two thousand dollars.
St. Domingo, (city,) one thousand five hundred dollars.

SCHEDULE C. Schedule C.

I.—CONSULS. Consuls.

GREAT BRITAIN.

Capetown and Falkland Islands, each one thousand dollars.

AUSTRIA.

Venice, seven hundred and fifty dollars.

PRUSSIA.

Stettin, one thousand dollars.

TURKEY.

Candia and Cyprus, each one thousand dollars.

NETHERLANDS.

Batavia, one thousand dollars.

PORTUGAL.

Fayal, and Santiago, (Cape de Verd,) each seven hundred and fifty dollars.

DENMARK.

Saint Croix, seven hundred and fifty dollars.

SARDINIA.

Spezzia, one thousand dollars.

GREECE.

Athens, one thousand dollars.

MUSCAT.

Zanzibar, one thousand dollars.

BRAZIL.

Bahia, Maranham Island, Para, and Rio Grande, each one thousand dollars.

MEXICO.

Matamoras, Mexico, (city,) and Tampico, each one thousand dollars.

Paso del Norte and Tabasco, each five hundred dollars.

PERU.

Paita and Tumbez, each five hundred dollars.

CHILI.

Talcahuano, one thousand dollars.

NEW GRANADA.

Carthagena and Sabanillo, each five hundred dollars.

HONDURAS.

Omoa, one thousand dollars.

ECUADOR.

Guayaquil, seven hundred and fifty dollars.

BOLIVIA.

Cobija, five hundred dollars.

URUGUAY.

Montevideo, one thousand dollars.

SOCIETY ISLANDS.

Tahiti, one thousand dollars.

NEW ZEALAND.

Bay of Islands, one thousand dollars.

NAVIGATORS' ISLANDS.

Apia, one thousand dollars.

FEEJEE ISLANDS.

Lanthala, one thousand dollars.

II.—COMMERCIAL AGENTS.

Commercial agents.

PORTUGAL.

St. Paul de Loanda, (Angola,) one thousand dollars.

LIBERIA.

Monrovia and Gaboon, each one thousand dollars.

ST. DOMINGO, (ISLAND.)

Cape Haytien, one thousand dollars.
Aux Cayes, five hundred dollars.

RUSSIA IN ASIA.

Amoor River, one thousand dollars.

SEC. 4. *And be it further enacted,* That consuls general, consuls, and commercial agents, not embraced

Compensation of consular offi-

cers not embraced in schedules B and C.

in schedules B and C, shall be entitled, as compensation for their services, to such fees as they may collect in pursuance of the provisions of this act, respectively.

No consul, etc. embraced in schedule B to be engaged in business, etc.

Kinds of business prohibited.

SEC. 5. *And be it further enacted*, That no consul general, consul, or commercial agent, embraced in schedule B, shall, while he holds his office, be interested in or transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person, to, from, or within the port, place, or limits of his consulate or commercial agency, directly or indirectly, either in his own name or in the name or through the agency of any other person; and if appointed after this act shall take effect, he shall, in his official bond, stipulate, as a condition thereof, not to violate this prohibition; and if appointed before and retained in office after this act shall take effect, he shall, within such reasonable time as the President shall prescribe, enter into a new official bond with such stipulation as a condition thereof; and if any such consul general, consul, or commercial agent shall violate such prohibition, he shall be liable to a penalty therefor, for the use of the United States, equal in amount to the annual compensation specified for him in said schedule B, which may be recovered in an action of debt at the suit of the United States, either directly for the penalty as such, against such consul general, or consul, or commercial agent, or upon his official bond, as liquidated damages, for the breach of such condition, against such consul general, consul, or commercial agent, and his sureties, or any one or more of them; and in every such case all such actions shall be open to the United States for the collection of such penalty till the same shall be collected in

Bond to that effect to be given.

New bond; when required.

Penalty for violation.

How recovered.

Actions for recovery of penalty.

some one of such actions; and every such penalty, when collected, shall be paid into the Treasury of the United States; and such prohibition shall be applicable to all consuls general, but not to any consul or commercial agent not embraced in said schedule B, except as hereinafter authorized, unless otherwise expressly provided by law.

Penalty paid into Treasury.

Prohibition; whom applicable.

SEC. 6. *And be it further enacted,* That the President be, and is hereby, authorized to appoint three interpreters of the Chinese language, who shall be entitled to compensation for their services, respectively, at a rate not to exceed fifteen hundred dollars per annum, to be determined by the President, and to assign such interpreters, from time to time, to such consulates in China and with such duties, as he may think proper.

Interpreters for consulates in China.

Their compensation.

SEC. 7. *And be it further enacted,* That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular pupils, not to exceed twenty-five in number at any one time, who shall be citizens of the United States, and entitled to compensation for their services, respectively, at a rate not to exceed one thousand dollars per annum, to be determined by the President; and to assign such pupils, from time to time, to such consulates, and with such duties, as he may think proper; and before the appointment of any such pupil shall be made, satisfactory evidence, by examination or otherwise, shall be furnished of his qualifications and fitness for the office to the Secretary of State, and by him laid before the President.[1]

Consular pupils.

Their number.

Their compensation.

Their assignment and duties.

Examination required.

SEC. 8. *And be it further enacted,* That no person appointed, after this act shall take effect, to any such office as is mentioned in the first, second, third, sixth,

When compensation is to commence and cease.

[1] Repealed Feb. 7, 1857.

or seventh sections of this act, shall be entitled to compensation for his services therein, except from the time when he shall reach his post and enter upon his official duties to the time when he shall cease to hold such office, and for such time as shall be actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in making the transit between the place of his residence when appointed and his post of duty, at the commencement and termination of the period of his official service, for which he shall in all cases be allowed and paid, except as hereinafter mentioned; and no person shall be deemed to hold any such office after his successor shall be appointed and actually enter upon the duties of his office at his post of duty, nor after his official residence at such post shall have terminated if not so relieved; but no such allowance or payment shall be made to any consul general, consul, or commercial agent contemplated by the fourth section of this act, or to any vice consul, vice commercial agent, deputy consul, or consular agent, for the time so occupied in receiving instructions or in such transit as aforesaid; nor shall any such officer as is referred to in this section be allowed compensation for the time so occupied in such transit, at the termination of the period of his official service, if he shall have resigned, or been recalled therefrom for any malfeasance in his office.

Cessation of office.

Consular officers contemplated by fourth section not entitled to compensation.

When a consular officer is not allowed compensation.

When a diplomatic officer receives an added appointment, to have half pay of such office.

SEC. 9. *And be it further enacted*, That when to any diplomatic office held by any person there shall be superadded another, such person shall be allowed additional compensation for his services, in such superadded office, at the rate of fifty per centum of the amount allowed by this act for such superadded office; and such superadded office shall be deemed to con-

tinue during the time to which it is limited by the terms thereof, and for such time as shall be actually and necessarily occupied in making the transit between the two posts of duty, at the commencement and termination of the period of such superadded office so limited, and no longer.

Continuance of such office.

SEC. 10. *And be it further enacted*, That for such time as any secretary of legation shall be lawfully authorized to act as chargé d'affaires *ad interim* at the post to which he shall have been appointed, he shall be entitled to receive compensation at the rate allowed by this act for a chargé d'affaires at such post; but he shall not be entitled to receive for such time the compensation allowed for his services as secretary of legation.

Pay of secretaries acting as chargé d'affaires.

Not entitled to two salaries.

SEC. 11. *And be it further enacted*, That for such time as any consular officer shall be authorized, pursuant to the provisions of this act, to perform diplomatic functions, in the absence of the regular diplomatic officer in the country to which he shall be appointed, he shall be entitled, in addition to his compensation as such consular officer, to receive compensation for his services, while so authorized, at the rate allowed by this act for a secretary of legation in such country.

Pay of consular officers performing diplomatic functions.

SEC. 12. *And be it further enacted*, That no consular officer shall exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or the country to which he shall be appointed, or any other country or government, when there shall be in such country any officer of the United States authorized to perform diplomatic functions therein, nor in any case, unless expressly authorized by the President so to do.

When consular officers may not exercise diplomatic functions.

Bonds of consuls general, consuls, and commercial agents.

SEC. 13. *And be it further enacted*, That every consul general, consul, and commercial agent, appointed before and retained in office after this act shall take effect, shall, without unnecessary delay, and every such officer appointed after this act shall take effect, shall, before he receives his commission or enters upon the duties of his office, enter into a bond to the United States, with such sureties, who shall be permanent residents of the United States, as the Secretary of State shall approve, in a penal sum not less than one thousand nor more than ten thousand dollars, and in such form as the President shall prescribe, conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person to his use, as such consul general, consul, or commercial agent, under any law now or hereafter enacted; and for the true and faithful performance of all other duties now or hereafter lawfully imposed upon him as such consul general, consul, or commercial agent; and in the cases of consuls general, consuls, and commercial agents embraced in schedule B, such bond shall contain, by way of further condition, the stipulation required by the fifth section of this act; and all such bonds shall be deposited with the Secretary of the Treasury, and in no case shall the penalty of such bond be less than the annual compensation allowed to the officer entering into such bond; and the President shall be authorized to require a new or additional bond from any such consul general, consul, or commercial agent, in like form and in such penalty, within the limits aforesaid, in amount, as he shall prescribe,

Penal sum.

Conditions.

Bonds to be deposited with the Secretary of the Treasury.

New bond may be required.

whenever, in his opinion, the public good shall require it.

President may define limits of consulates, etc. and provide for vice consuls, etc.

SEC. 14. *And be it further enacted,* That the President be, and he is hereby, authorized to define the extent of country to be embraced within any consulate or commercial agency, and to provide for the appointment of vice consuls, vice commercial agents, deputy consuls, and consular agents therein, in such manner and under such regulations as he shall deem proper; but no compensation shall be allowed for the services of any such vice consul or vice commercial agent, beyond nor except out of the allowance made by this act for the principal consular officer in whose place such appointment shall be made; and no vice consul, vice commercial agent, deputy consul, or consular agent shall be appointed otherwise than in such manner and under such regulations as the President shall prescribe, pursuant to the provisions of this act.

Their pay to be out of the allowance of the principal consular officer.

Mode of appointment of subordinate consular officers.

Pay of vice consuls and commercial agents.

SEC. 15. *And be it further enacted,* That every vice consul and vice commercial agent shall be entitled, as compensation for his services as such, to the whole or so much of the compensation of the principal consular officer, in whose place he shall be appointed, as shall be determined by the President, and the residue, if any, shall be paid to such principal consular officer; and every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of this act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which such consular agent shall be appointed shall be entitled to the residue, if any, in addition to any other compen-

Pay of consular agents.

Residue of compensation.

sation allowed him by this act for his services therein; and the President shall have power to subject any consul or commercial agent contemplated by the fourth section of this act, and any vice consul, vice commercial agent, deputy consul, or consular agent, to the prohibition as to trade contained in the fifth section of this act, and to require from any of them such bond as is provided for by the thirteenth section of this act, whenever he shall think the public interests will be promoted thereby.

President may interdict consul, etc. or vice consul, etc. from trading.

Bond may be required.

President may prescribe fees for official services, and designate what are official services.

SEC. 16. *And be it further enacted*, That the President be, and he is hereby, authorized to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several legations, consulates, and commercial agencies, and to adapt the same, by such differences as may be necessary or proper, to each legation, consulate, or commercial agency, and such rates or tariffs shall be reported annually to Congress; and it shall be the duty of all officers and persons connected with such legations, consulates, or commercial agencies to collect for such official services such and only such fees as may be prescribed for their respective legations, consulates, and commercial agencies; and it shall be the duty of the collectors of the several districts, whenever any clearance is granted to any ship or vessel of the United States, duly registered as such, and bound on any foreign voyage, to annex thereto, in every case, a copy of the rates or tariffs of fees which shall be allowed in pursuance of the provisions of this act, and then in force; and it shall be the duty of all consular officers at all times to keep up in their

To report the same annually to Congress.

Prescribed fees only to be collected.

Collectors to annex to clearances a copy of such tariff.

offices, respectively, a copy of such rates or tariffs as shall be in force, in a conspicuous place, and subject to the examination of all persons interested therein.

Consuls, etc. to keep a copy in their offices.

SEC. 17. *And be it further enacted*, That it shall be the duty of all consular officers to give receipts for all fees which shall be collected for their official services respectively, expressing the particular services for which the same were collected; and if any such consular officer shall collect, or knowingly allow to be collected, for any such service, any other or greater fees than such as shall be allowed pursuant to the provisions of this act for such service, he shall, besides his liability to refund the same, be liable to pay to the person by whom or in whose behalf the same shall be paid, treble the amount of said unlawful charge so collected, as a penalty therefor, to be recovered by such person in any proper form of action, to and for the use of such person, besides costs of suit. And in any such case the Secretary of the Treasury is hereby authorized to retain, out of the compensation of such officer, the amount of such overcharge, and of such penalty, and charge the same to such officer in account, and thereupon to refund such unlawful charge, and pay such penalty to the person entitled to the same, if he shall think proper so to do.

Receipts to be given for fees.

Official services to be specified.

Penalty for collecting other or greater fees.

May be off-set to compensation.

Unlawful charge may be refunded.

SEC. 18. *And be it further enacted*, That all fees collected at any of the legations, or by the consuls general, consuls, and commercial agents mentioned in schedules B and C, and by vice consuls and vice commercial agents appointed to perform their duties, or by any other persons in their behalf, shall be accounted for to the Secretary of the Treasury, and held subject to his draft or other directions. And all

Fees to be accounted for.

Subject to draft.

Returns to be made of fees.

such consuls general, consuls, commercial agents, and consular agents as are allowed for their compensation the whole or any part of the fees which they may collect pursuant to the provisions of this act, and all vice consuls and vice commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents as are allowed for their compensation the whole or any part of such fees as aforesaid, shall make returns of all such fees as they or any other persons in their behalf shall so collect, in such manner as the Secretary of State shall prescribe;

Fees to be reported to Congress.

and all such fees as shall be so collected, accounted for and reported, shall be reported annually to Congress, with the report of the rates or tariffs of fees

Consular list to be reported.

required by the seventeenth section of this act, with a full list of all consular officers; and if any consul

Penalty for omission to collect fees.

general, consul, or commercial agent mentioned in schedules B and C, or any vice consul or vice commercial agent appointed to perform the duty of any such officer mentioned in said schedules B and C, shall omit to collect any fees which he shall be entitled to charge, pursuant to the provisions of this act, for any official service, he shall be liable to the United States

Proviso.

therefor, as though he had collected the same, unless, upon good cause shown therefor, the Secretary of the Treasury shall think proper to remit the same; and

Receipts described.

every consular officer shall number all receipts given by him for fees received for official services in the order of their dates, beginning with number one at the commencement of the period of his service, and on the first day of January in every year thereafter;

Fee book; how to be kept.

and he shall keep a book, in which he shall register all fees so received by him, in the order in which they shall be received, specifying in such register each item

of service and the amount received therefor, from whom, and the dates when received, and if for any service connected with any ship or vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts, respectively, so that the receipts and register shall correspond with each other; and he shall, in such register, specify the name of the person for whom and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service, in the entry of the receipt of the fees therefor, and also number each consular act so receipted for with the number of such receipt, and as shown by such register; and it shall be the duty of all owners, agents, consignees, masters, and commanders of ships and vessels to whom any receipt for fees shall be given by any consular officer, to furnish a copy thereof to the collector of the district in which such ships and vessels shall first arrive on their return to the United States; and it shall be the duty of every collector to forward to the Secretary of the Treasury all such copies of receipts as shall have been so furnished to him, and also a statement of all certified invoices which shall come to his office, giving the dates of the certificates and the names of the persons for whom and of the consular officers by whom the same were certified; and every consular officer, in rendering his account or report of fees received, shall furnish a full transcript of the register which he is hereby required to keep, under oath or affirmation that the same is true and correct, and that the same contains a full and accurate statement of all fees received by him, or for his use, for his official

Names to be specified.

Copy of receipts for fees to be delivered to collector on return of vessels, to be forwarded to Secretary of the Treasury.

Oath to accounts.

services as such consular officer, to the best of his knowledge, during the period for which the same shall purport to be rendered, and that such oath or affirmation may be taken before any person having authority to administer oaths and affirmations at the port or place where such consular officer is located; and if any such consular officer shall wilfully and corruptly commit perjury, in any such oath or affirmation, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried and convicted, and dealt with in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath or affirmation, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence.

By whom administered.

Penalty for perjury.

Absence from post; when forbidden. Deductions from pay therefor.

SEC. 19. *And be it further enacted,* That no such officer as is mentioned in the first, second, third, fourth, sixth, or seventh sections of this act shall, nor shall any consular agent, be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President. And no compensation shall be allowed for the time of any such absence in any case, except cases of sickness; nor shall any diplomatic or consular officer correspond in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States, nor recommend any person, at home or abroad, for any employment of trust or profit under the government of the country in which he is

No diplomatic or consular officer to correspond with private persons on public affairs, or recommend to, or ask for or accept office abroad.

located; nor ask or accept, for himself or any other person, any present, emolument, pecuniary favor, office, or title of any kind, from any such government.

SEC. 20. *And be it further enacted*, That the compensation provided by this act shall be in full for all the services and personal expenses which shall be rendered or incurred by the officers or persons respectively for whom such compensation is provided, of whatever nature or kind such services or personal expenses may be, or by whatever treaty, law, or instructions such services or personal expenses so rendered or incurred are or shall be required; and no allowance, other than such as is provided by this act, shall be made in any case for the outfit or return home of any such officer or person; and no consular officer shall, nor shall any person under any consular officer, make any charge, or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner shall be entitled who shall be discharged in any foreign country, or for any money advanced to any such seaman or mariner who shall seek relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending home any such seaman or mariner: *Provided*, That such prohibition as to profit shall not be construed to relieve or prevent any such officer who shall be the owner or otherwise interested in any ship or vessel of the United States from transporting in such ship or vessel any such seaman or mariner, or from

Pay to be in full for all services.

Commissions on wages, or being interested in boarding or supplying sailors, forbidden.

Proviso.

receiving or being interested in such reasonable allowance as may be made for such transportation, under and by virtue of the fourth section of the act entitled "An act supplementary to the act concerning consuls and vice consuls, and for the further protection of American seamen," approved February twenty-eighth, eighteen hundred and three.

Provisions as to those holding office who are not citizens.

SEC. 21. *And be it further enacted,* That no compensation provided by this act for any such officer as is mentioned in the first section of this act, or for any assistant secretary of legation, or for any such officer as is mentioned in schedules B and C of the third section of this act, or any appropriation therefor, shall be applicable to the payment of the compensation of any person appointed to or holding any such office after this act shall take effect, who shall not be a citizen of the United States; nor shall any other compensation be allowed in any such case.

Stationery and other articles for the legations, consulates, etc., to be provided.

SEC. 22. *And be it further enacted,* That the President be, and is hereby, authorized to provide, at the public expense, all such stationery, blanks, record and other books, seals, presses, flags and signs, as he shall think necessary for the several legations, consulates, and commercial agencies in the transaction of their business; and whenever he shall think there is sufficient reason therefor, to allow consuls general, consuls, and commercial agents who are not allowed to trade, actual expenses of office rent, not to exceed, in any case, ten per centum of the amount of the annual compensation allowed to such officer, and to prescribe such regulations, and make and issue such orders and instructions, not inconsistent with the constitution or any law of the United States, in relation to the duties of all diplomatic and consular officers, the transaction

Office rent may be allowed.

President may prescribe rules as to transaction of business and duties of consular officers.

of their business, the rendering of accounts and returns, the payment of compensation, the safe keeping of the archives and public property in the hands of all such officers, the communication of information, and the procurement and transmission of the products of the arts, sciences, manufactures, agriculture, and commerce, from time to time, as he may think conducive to the public interests; and it shall be the duty of all such officers to conform to such regulations, orders, and instructions. And it shall be the duty of the Secretary of State to publish official notifications, from time to time, of such commercial information communicated to him by such diplomatic and consular officers as he may deem important to the public interests, in such newspapers, not to exceed three in number, as he may select, and to report to Congress, at least once in each year, a synopsis of so much of the information on all subjects which shall be so communicated to him as he may deem valuable for public information.

Safe keeping of archives, and communication of information.

Regulations, etc., to be observed.

Secretary of State to publish commercial information.

Report to be made to Congress.

SEC. 23. *And be it further enacted,* That the Secretary of State shall be authorized to grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe, for and on behalf of the United States, and no other person shall grant, issue, or verify any such passport; nor shall any passport be granted or issued to or verified for any other persons than citizens of the United States; * * * * * and in any case the fee allowed (for verification) therefor shall not exceed the sum of one dollar,[1] nor

Passports.

Passports to be issued to citizens of the United States only.

[1] See Statutes at Large, vol. xii. Act of July 1, 1862.

Fee for passports; when and where payable.

shall any such charge be made for more than one such verification in any foreign country; and if any person acting or claiming to act in any office or capacity under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport, or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification, or if any consular officer who shall be authorized to grant, issue, or verify passports shall knowingly and wilfully grant, issue, or verify any such passport to or for any person not a citizen of the United States, the person so offending shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be imprisoned not exceeding one year, or fined in a sum not to exceed five hundred dollars, or both, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody; and it shall be the duty of all persons who shall be authorized, pursuant to the provisions of this act, to grant, issue, or verify passports, to make return of the same to the Secretary of State, in such manner and as often as he shall require; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport: *Provided*, That in any country where a legation of the United States is established no person other than the diplomatic representative of the United States at such place shall be permitted to grant or issue any passport, except in the absence therefrom of such representative.

Penalty for unlawful issue of passports.

Return of passports to be made.

Specifications required.

No person to issue passports except in the absence of a diplomatic officer.

SEC. 24. *And be it further enacted*, That every secretary of legation and consular officer is hereby authorized, whenever he shall be required or may deem it necessary or proper so to do, at the post, port, place, or within the limits of his legation, consulate, or commercial agency, to administer to or take from any person an oath, affirmation, affidavit, or deposition, and also to perform any notarial act or acts such as any notary public is required or authorized by law to do or perform within the United States; and every such oath, affirmation, affidavit, deposition, and notarial act administered, sworn, affirmed, taken, had, or done by or before any such officer, when certified under his hand and seal of office, shall be as good, valid, effectual, and of like force and effect within the United States, to all intents and purposes, as if such oath, affirmation, affidavit, deposition, or notarial act had been administered, sworn, affirmed, taken, had, or done by or before any other person within the United States duly authorized and competent thereto; and if any person shall wilfully and corruptly commit perjury, or by any means procure any person to commit perjury, in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with, in any district of the United States, in the same manner, in all respects, as if such offence had been committed in the United States before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offence; and any document purport-

Secretaries of legations and consular officers may administer oaths and act as notaries.

Validity of such acts.

Penalty for perjury in such oaths.

Mode of trial.

Evidence of the taking of the oath.

ing to have affixed, impressed, or subscribed thereto or thereon, the seal and signature of the officer administering or taking the same in testimony thereof, shall be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false and counterfeit, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined in a sum not to exceed three thousand dollars, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

Penalty for forging a seal or signature.

Place of trial.

Provisions in case of desertion of seamen.

SEC. 25. *And be it further enacted,* That whenever any seaman or mariner of any vessel of the United States shall desert such vessel, the master or commander of such vessel shall note the fact and date of such desertion on the list of the crew, and the same shall be officially authenticated at the port or place of the consulate or commercial agency first visited by such vessel after such desertion, if such desertion shall have occurred in a foreign country; or if, in such case, such vessel shall not visit any place where there shall be any consulate or commercial agency before her return to the United States, or the desertion shall have occurred in this country, the fact and time of such desertion shall be officially authenticated before a notary public immediately at the first port or place where such vessel shall arrive after such desertion; and all wages that may be due to such sea-

Authentication of the desertion.

man or mariner, and whatever interest he may have in the cargo of such vessel, shall be forfeited to and become the property of the United States, and paid over for their use to the collector of the port where the crew of such vessel are accounted for as soon as the same can be ascertained, first deducting therefrom any expense which may necessarily have been incurred on account of such vessel in consequence of such desertion; and in settling the account of such wages or interest no allowance or deduction shall be made, except for moneys actually paid, or goods at a fair price supplied, or expenses incurred to or for such seaman or mariner, any receipt or voucher from or arrangement with such seaman or mariner to the contrary notwithstanding.

Forfeiture of wages.

Settlement of account for wages.

SEC. 26. *And be it further enacted,* That upon the application of any seaman or mariner for a discharge, if it shall appear to the consular officer that he is entitled to his discharge under any act of Congress, or according to the general principles or usages of maritime law as recognized in the United States, he shall discharge such seaman or mariner, and shall require from the master or commander of the ship or vessel from which such discharge shall be made, the payment of three months' extra wages, as provided by the act hereinbefore mentioned, approved February twenty-eighth, eighteen hundred and three; and it shall be the duty of such master or commander to pay the same, and no such payment or any part thereof shall be remitted in any case, except such as are mentioned in the proviso of the ninth clause of the act entitled "An act in addition to the several acts regulating the shipment and discharge of seamen and the duties of consuls," approved July twentieth,

Provision for the case of the discharge of seamen abroad.

Extra wages required.

When only payment of extra wages may be remitted.

eighteen hundred and forty, and as hereinafter provided, and the extra wages required to be paid by the said ninth clause of the last hereinbefore mentioned act, and by this section, shall be applicable to the same purposes and in the same manner as is directed by the said act approved February twenty-eighth, eighteen hundred and three, in regard to the extra wages required to be paid thereby; and if any consular officer, when discharging any seaman or mariner, shall neglect to require the payment of and collect the extra wages required to be paid in the case of the discharge of any seaman or mariner by either of the said acts, as far as they shall remain in force under this act, or by this act, he shall be accountable to the United States for the full amount of their share of such wages, and to such seaman or mariner to the full amount of his share thereof; and if any seaman or mariner shall, after his discharge, have incurred any expense for board or other necessaries at the port or place of his discharge before shipping again, such expense shall be paid out of the share of the three months' wages to which he shall be entitled, which shall be retained for that purpose, and the balance only paid over to him: *Provided, however*, That in cases of wrecked or stranded ships or vessels, or ships or vessels condemned as unfit for service, no payment of extra wages shall be required.

Application of extra wages.

Consular officers accountable for extra wages.

Proviso.

SEC. 27. *And be it further enacted*, That every consular officer shall keep a detailed list of all seamen and mariners shipped and discharged by him, specifying their names and the names of the vessels on and from which they shall be shipped and discharged, and the payments, if any, made on account of each so discharged; and also of the number of the vessels

List to be kept of seamen shipped or discharged, and of all vessels arriving or departing, and of their cargoes,

arrived and departed, and the amounts of their registered tonnage, and the number of their seamen and mariners, and of those who are protected, and whether citizens of the United States or not, and as nearly as possible the nature and value of their cargoes, and where produced, and make returns of the same, with their accounts and other returns, to the Secretary of the Treasury; and no consular officer shall certify any invoice unless he shall be satisfied that the person making the oath or affirmation thereto is the person he represents himself to be, that he is a credible person, and that the statements made under such oath or affimation are true; and he shall thereupon, by his certificate, state that he was so satisfied; and it shall be the duty of every consular officer to furnish to the Secretary of the Treasury, as often as shall be required, the prices current of all articles of merchandise usually exported to the United States from the port or place in which he shall be located.

and payments made.

Nature of returns to be made to Secretary of the Treasury.

When consular officers are forbidden to certify invoices.

Certificate.

Prices current to be furnished.

SEC. 28. *And be it further enacted,* That it shall be the duty of every master and commander of a ship or vessel of the United States, whenever he shall have occasion for any consular or other official service which any consular officer of the United States shall be authorized by law or usage officially to perform, and for which any fees shall be allowed by the said rates or tariffs of fees as aforesaid, to apply to such one of the said officers as may then be officially located at the consulate or commercial agency, if any there be where such service shall be required, to perform such service; and such master or commander shall pay to such officer such fees as shall be allowed for such service in pursuance of the provisions of this

Masters, etc., of ships obliged to apply to said officers when they have occasion for any official services.

Fees to be paid.

Masters liable for the amount of fees.

act; and if any such master or commander shall omit so to do, he shall be liable to the United States for the amount of the fees lawfully chargeable for such services, as though the said services had been performed by such officer; and all consular officers are hereby authorized and required to retain in their possession all the papers of such ships and vessels which shall be deposited with them as directed by law, till payment shall be made of all demands and wages on account of such ships and vessels.

Ship's papers may be detained till payment is made.

Duties of consular officers when citizens die abroad.

SEC. 29. *And be it further enacted*, That if any citizen of the United States who shall die abroad shall, by any lawful testamentary disposition, leave special directions for the custody and management, by the consular officer of the port or place where he shall die, of the personal property of which he shall die possessed in such country, as contemplated by the act entitled "An act concerning consuls and vice consuls," approved April fourteenth, seventeen hundred and ninety-two, it shall be the duty of such officer, so far as the law of such country will permit, strictly to observe such directions; and if any such citizen so dying shall, by any lawful testamentary disposition, have appointed any other person or persons than such officer to take charge of and manage such property, it shall be the duty of such officer, whenever required by such person or persons so appointed, to give his official aid in whatever way may be necessary to facilitate the proceedings of such person or persons in the lawful execution of such trust, and, so far as the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country where such citizen shall die; and to this end it shall be the duty of such consular officer

Official assistance to be given to executors.

to place his official seal upon all or any of the personal property or effects of the deceased, and to break and remove such seals, as may be required by such person or persons, and not otherwise.

When seals are to be placed and removed.

SEC. 30. *And be it further enacted*, That all fees collected for and in behalf of the United States, in pursuance of this act, shall be collected in the coin of the United States, or at its representative value in exchange.

Fees; in what coinage payable.

SEC. 31. *And be it further enacted*, That in the construction, and for the purposes, of all other acts and parts of acts which shall remain in force after this act shall take effect, defining any of the powers, declaring any of the rights, prescribing any of the duties, or imposing any penalty or punishment for any act of omission or commission of any consul, commercial agent, vice consul, or vice commercial agent, or allowing or enjoining the performance of any act, matter, or thing, with or before any such officer, all such acts and parts of acts shall in all these several respects, so far as may be consistent with the subject-matter and context of the same and with this act and the treaties of the United States, be deemed and taken to include and apply to all consular officers as though all such officers were specially named therein; and the said official designations in contemplation of all such acts and parts of acts, and of this act, shall be deemed and taken to have the respective meanings hereinafter assigned to them; that is to say, "consul general," "consul," and "commercial agent," shall be deemed and taken to denote full, principal, and permanent "consular officers," as distinguished from subordinates[1] and substitutes; "deputy consul" and "con-

Construction of former acts about consular officers.

Meaning of titles of consular officers.

Consul general; consul; commercial agent.

Deputy consul; consular agent.

[1] See Opinion of Attorney General, July 16, 1860.

sular agent" shall be deemed and taken to denote "consular officers" subordinate to such principals, exercising the powers and performing the duties within the limits of their consulates or commercial agencies respectively, the former at the same ports or places, and the latter at ports or places different from those at which such principals are located, respectively; and "vice consuls" and "vice commercial agents" shall be deemed and taken to denote "consular officers" who shall be substituted temporarily to fill the places of "consuls general," "consuls," or "commercial agents," when they shall be temporarily absent or relieved from duty; and the term "consular officer," as used in this act, shall be deemed and taken to include all such officers as are mentioned in this section, and none others; and the term "diplomatic officer," as used in this act, shall be deemed and taken to include all the officers mentioned in the first section of this act, and none others.

Vice consul; vice commercial agent.

Consular officer.

Diplomatic officer.

Penalties for violation or neglect of duty by consular officers.

SEC. 32. *And be it further enacted,* That if any consular officer shall wilfully neglect or omit to perform seasonably any duty imposed upon him by this or any other act, or by any order or instruction made or given in pursuance of this or any other act, or shall be guilty of any wilful malfeasance or abuse of power or any corrupt conduct in his office, he shall be liable to all persons injured by any such neglect or omission, malfeasance, abuse, or corrupt conduct, for all damages occasioned thereby; and for all such damages by any such officer, he, and his sureties upon his official bond, shall be responsible thereon to the full amount of the penalty thereof, to be sued in the name of the United States for the use of the person or persons so injured: *Provided,* That such suit shall

Proviso.

in no case prejudice, but shall be held in entire subordination to the interests, claims, and demands of the United States, as against such officer, under such bond, for every wilful act of malfeasance or corrupt conduct in his office; and if any such officer shall refuse to pay any draft, order, or warrant which may be drawn upon him by the proper officer of the Treasury Department for any public moneys of the United States in his hands, or for any amount due from him to the United States, whatever the capacity in which he may have received or may hold the same, or to transfer or disburse any such moneys promptly upon the legal requirement of any authorized officer of the United States, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment not to exceed ten years nor less than one year, or by fine not to exceed two thousand dollars nor less than two hundred dollars, or both, at the discretion of the court; and any such officer so offending may be charged, proceeded against, tried, convicted, and dealt with in any district in which he may be arrested or in custody.

Penalty for refusal to pay draft, order, or warrant.

Where trial to be had.

SEC. 33. *And be it further enacted,* That the fifth, sixth, and seventh sections of the act hereinbefore mentioned, approved July twentieth, eighteen hundred and forty, and all of the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March first, eighteen hundred and fifty-five, and all acts and parts of acts whereby any such fees as are contemplated by the seventeenth section of this act are fixed or allowed, and any usage or law whereby any attaché is or may be allowed to any legation other than such as are

Repealing clause.

provided in this act, or requiring any secretary of legation to be employed otherwise than as provided by this act, and all other acts and parts of acts, so far as the same are inconsistent with this act, be, and the same are hereby, annulled and repealed; and no attaché shall be allowed in any case, nor any secretary of legation, otherwise than as provided by this act.

No attaché nor secretary of legation allowed otherwise than is provided.

When this act to take effect.

SEC. 34. *And be it further enacted*, That this act shall take effect on the first day of January next, and not before.

AN ACT making appropriations for the consular and diplomatic expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-eight.

EXTRACT.

Appointment of consular pupils no longer authorized.

SEC. 2. *And be it further enacted*, That the seventh section of "An act to regulate the diplomatic and consular systems of the United States," approved August eighteenth, eighteen hundred and fifty-six, be, and the same is hereby, repealed.[1]

AN ACT making appropriations for the consular and diplomatic expenses of the government for the year ending the thirtieth of June, eighteen hundred and sixty.[2]

EXTRACT.

Salary of consul general of British North America. 1856, ch. 127.

SEC. 2. *And be it further enacted*, That the salary provided by the third section of "An act to regulate the diplomatic and consular systems of the United States," approved August eighteenth, eighteen hundred and fifty-six, as compensation for the consul general of British North America, as by schedule B,

[1] Statutes at Large, vol. xi. p. 160. [2] Ibid. p. 404.

shall be in full of all compensation allowed to that officer; and all fees received by any vice consul or commercial agent in British North America, exceeding the amount allowed by the President as compensation for his services, and all fees received by said consul general, shall be accounted for by such officers, respectively, to the treasury of the United States.

Fees, etc., to be accounted for.

SEC. 3. *And be it further enacted*, That the fee for certifying invoices, and for certifying the place of growth or production of goods made duty free by the reciprocity treaty, to be charged by the consul general for the British North American provinces and subordinate consular officers, or agents in said provinces, shall be fifty cents for each certificate, and no more. And no such certificate of the growth or production shall be required for goods not exceeding in value the sum of two hundred dollars.[1]

Fee for certifying certain invoices, etc.

Certificate not required for goods not exceeding $200 in value.

APPROVED March 3, 1859.

AN ACT making appropriations for the legislative, executive, and judicial expenses of the government, for the year ending the thirtieth of June, eighteen-hundred and fifty-eight.

EXTRACT.

SEC. 6. *And be it further enacted*, That all the provisions of the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August eighteenth, eighteen hundred and fifty-six, shall be construed equally to extend to the persons in said eighth section mentioned, who shall have been appointed subse-

Construction of act of 1856 as to compensation.

[1] See Opinion of Attorney General, dated July 16, 1860, in relation to the construction of these sections, and the meaning of "subordinate consular officers."

quent to the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March the first, eighteen hundred and fifty-five.[1]

AN Act making appropriations for sundry civil expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

EXTRACT.

Transit compensation of certain officers appointed under the act of 1855.

SEC. 20. *And be it further enacted*, That all diplomatic and salaried consular officers who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March the first, eighteen hundred and fifty-five, shall have the same compensation during the time necessarily occupied in making the transit to and returning from their respective posts, and while they were receiving their instructions, as is provided for diplomatic and salaried consular officers in the eighth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August eighteenth, eighteen hundred and fifty-six: *Provided*, That the foregoing shall not be construed to apply to any diplomatic or consular officer who was in office, and at his post of duty, when said act, approved March first, eighteen hundred and fifty-five, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts.[2]

Proviso.

[1] Statutes at Large, vol. xi. p. 220. [2] Ibid. p. 328.

AN Act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to carry into full effect the provisions of the treaties of the United States with the empires of China, Japan, and Siam, respectively, the minister and the consuls of the United States, duly appointed to reside in each of the said countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties, respectively, be invested with the judicial authority herein described, which shall appertain to the said office of minister and consul, and be a part of the duties belonging thereto, wherein the same is allowed by treaty.

Minister and consuls invested with judicial powers.

SEC. 2. *And be it further enacted,* That in regard to crimes and misdemeanors, the said public functionaries are hereby fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offences against law, which shall be committed in such countries, respectively, and, upon conviction, to sentence such offenders in the manner herein authorized; and the said functionaries, and each of them, are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Crimes and misdemeanors.

SEC. 3. *And be it further enacted,* That, in regard to civil rights, whether of property or person, the said functionaries are hereby invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, and shall entertain jurisdiction

Civil jurisdiction.

Place of jurisdiction.

in matters of contract at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed; and in all other matters at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained, any such port above named being always one of the ports at which the United States are represented by consuls; which jurisdiction shall embrace all controversies between citizens of the United States, or others provided for by such treaties, respectively.

Jurisdiction to be exercised in conformity with the laws of the United States.

SEC. 4. *And be it further enacted*, That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, extended over all citizens of the United States in the said countries, (and over all others to the extent that the terms of the said treaties, respectively, justify or require,) so far as such laws are suitable to carry the said treaties into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law, including equity and admiralty, shall be extended in like manner over such citizens and others in the said countries; and, if defects still remain to be supplied, and neither the common law, including equity and admiralty, nor the statutes of the United States, furnish appropriate and suitable remedies, the ministers in the said countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

Common law, including equity and admiralty.

Decrees and regulations.

SEC. 5. *And be it further enacted*, That in order to

organize and to carry into effect the system of jurisprudence demanded by such treaties, respectively, the said ministers, with the advice of the several consuls in each of the said countries, respectively, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry this act into effect, shall be appointed and compensated; the form of bail bonds, and the security which shall be required of the party who appeals from the decision of a consul; and generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of this act, as the exigency may demand; and all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the minister, in the said countries, respectively, may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it to become binding and obligatory, until an-

Forms of process.

Trials.

Oaths.

Costs.

Fees.

Judicial officers.

Bail bonds.

Appeals.

Decrees and regulations, how made.

nulled or modified by Congress; and it shall take effect from the publication or any subsequent day thereto named in the act.

Decrees and regulations to be submitted to Congress.

SEC. 6. *And be it further enacted,* That all such regulations, orders, and decrees, shall, as speedily as may be after publication, be transmitted by the said ministers, with the opinions of their advisers, as drawn up by them severally, to the Secretary of State to be laid before Congress for revision.

Warrants and arrests.

SEC. 7. *And be it further enacted,* That each of the consuls aforesaid, at the port for which he is appointed, shall be competent, under the authority herein contained, upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made, or information filed in writing and authenticated in such way as shall be prescribed by the minister, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offence against law; and when arrested, to arraign and try any such offender; and upon conviction, to sentence him to punishment in the manner herein prescribed; always meting out punishment in a manner proportioned to the offence; which punishment shall, in all cases, except as is herein otherwise provided, be either fine or imprisonment.

Trial.

Punishment.

Limitation of consular jurisdiction in criminal cases.

SEC. 8. *And be it further enacted,* That any consul, when sitting alone for the trial of offences, or misdemeanors, shall finally decide all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days. And there shall be no appeal therefrom except as provided in section eleven of this act. But no fine imposed by a consul for a contempt committed in the

Appeal.

Contempt.

presence of the court, or for failing to obey a summons from the same, shall exceed fifty dollars, nor shall the imprisonment exceed twenty-four hours for the same contempt.

Extent of consular jurisdiction.

SEC. 9. *And be it further enacted,* That when sitting alone he may also decide all cases in which the fine imposed does not exceed five hundred dollars, or the term of imprisonment does not exceed ninety days; but in all such cases, if the fine exceeds one hundred dollars, or the term of imprisonment for misdemeanor exceeds ninety days, the defendants (or any of them, if there be more than one) may take the case, by appeal, before the minister of the United States, if allowed jurisdiction, either upon errors of law or matters of fact, under such rules as may be prescribed by the minister for the prosecution of appeals in such cases.

Appeal.

When associates are to be appointed.

SEC. 10. *And be it further enacted,* That whenever, in any case, the consul shall be of opinion that, by reason of the legal questions which may arise therein, assistance will be useful to him, or whenever he shall be of opinion that a severer punishment than those above specified will be required, he shall, in either case, summon one or more citizens of the United States, not exceeding four in number, taken by lot from a list of individuals which shall have been submitted previously to the minister for his approval, but in capital cases not less than four, who shall be persons of good repute and competent to the duty, to sit with him in the trial, and who, after so sitting upon the trial, shall each enter upon the record his judgment and opinion, and sign the same. The consul shall, however, give judgment in the case; but if his decision is opposed by the opinion of one or more

Mode of appointment.

Reference of cases to the United States minister.

of his associates, the case, without further proceedings, together with the evidence and opinions, shall be referred to the minister for his final adjudication, either by entering up judgment therein, or remitting the same to the consul, with instructions how to proceed therewith; but in all such cases, except capital offences, if the consul and his associates concur in opinion, the decision shall be final, except as is provided in section nine of this act.

Decision, when final.

Extent of civil jurisdiction.

SEC. 11. *And be it further enacted*, That the consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under such treaties, respectively, wherein the damage demanded does not exceed the sum of five hundred dollars; and if he sees fit to decide the same without aid, his decision thereon shall be final; but if, in his judgment, any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid, from a list of individuals which shall have been nominated for the purposes of this act to the minister and received his approval, not less than two nor more than three citizens of the United States, if such are residing at the port, of good repute and competent to the duty, who shall with him hear any such case; and if the consul and his associates concur in opinion, the judgment shall be final; but if the associates, or any of them, differ from the consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to or dissent from the consul, with such reasons therefor as he thinks proper to assign, and either party may thereupon appeal, under such regulations as may

Appointment of associates.

Decision, when final.

Appeal to minister.

exist, to the minister; but if no appeal is lawfully claimed, the decision of the consul shall be final and conclusive.

Evidence to be taken in writing.

SEC. 12. *And be it further enacted*, That in all cases, criminal and civil, the evidence shall be taken down in writing in open court, under such regulations as may be made for that purpose: and all objections to the competency or character of testimony shall be noted, with the ruling in all such cases, and the evidence shall be part of the case.

Jurisdiction of minister.

SEC. 13. *And be it further enacted*, That the minister of the United States in the country to which he is appointed shall, in addition to his power to make regulations and decrees, as herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him, by appeal, under the provisions of this act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he may also prescribe the rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds.

Rules.

Punishments.

SEC. 14. *And be it further enacted*, That in all cases, except as is herein otherwise provided, the punishment of crime provided for by this act shall be by fine or imprisonment, or both, at the discretion of the functionary who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of each and every functionary to allot punishment according to the magnitude and aggravation of the offence;

Imprisonment.

and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the consul, with the consent of the minister in the country.

Capital offences.

SEC. 15. *And be it further enacted,* That murder and insurrection, or rebellion against the government of either of the said countries, with intent to subvert the same, shall be capital offences, punishable with death; but no person shall be convicted of either of said crimes, unless the consul and his associates in the trial all concur in opinion, and the minister also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes, of a lesser offence of a similar character, if the evidence justifies it; and when so convicted, to punish, as for other offences, by fine or imprisonment, or both.

Conviction.

Execution.

SEC. 16. *And be it further enacted,* That whenever any one shall be convicted of either of the crimes punishable with death, as aforesaid, in either of the said countries, it shall be the duty of the minister to issue his warrant for the execution of such convict, appointing the time, place, and manner; but if the said minister shall be satisfied that the ends of public justice demand it, he may, from time to time, postpone such execution; and if he finds mitigatory circumstances which may authorize it, may submit the case to the President of the United States for pardon.

Postponement of execution.

Case when to be submitted to the President.

Judicial fees.

SEC. 17. *And be it further enacted,* That it shall be the duty of the minister in each of the said countries to establish a tariff of fees for judicial services, which shall be paid by such parties, and to such persons, as said minister shall direct; and the proceeds shall, as

far as is necessary, be applied to defray the expenses incident to the execution of this act; and regular accounts, both of receipts and expenditures, shall be kept by the said minister and consuls and transmitted annually to the Secretary of State.

Payment of expenses.

Accounts to be kept.

SEC. 18. *And be it further enacted*, That, in all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the minister in the country or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

Amicable adjustments.

SEC. 19. *And be it further enacted*, That it shall be the duty also of the said ministers and the consuls to encourage the settlement of controversies of a civil character, by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the minister in each country to prepare a form of submission for such cases, to be signed by the parties, and acknowledged before the consul; and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed *ex parte*, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he accepts it, he shall endorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: *Provided, however*, That the parties may always settle the same before return thereof is made to the consul.

Settlement of controversies by mutual agreement.

Referees.

Form of submission.

Trial before referees.

Award.

Execution.

SEC. 20. *And be it further enacted*, That the ministers aforesaid and consuls shall be fully authorized to

Application to local authorities.

call upon the local authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaties into full effect, so far as they are to be executed in the said countries, respectively.

Criminal jurisdiction in Turkey.

SEC. 21. *And be it further enacted*, That the provisions of this act, so far as the same relate to crimes and offences committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May seventh, eighteen hundred and thirty,[1] and shall be executed in the Ottoman dominions, in conformity with the provisions of said treaty, and of this act, by the minister of the United States and the consuls of the United States [appointed] to reside therein, who are hereby *ex officio* vested with the powers herein conferred upon the minister and consuls in China, for the purposes above expressed, so far as regards the punishment of crime, and also for the exercise of jurisdiction in civil cases wherein the same is permitted by the laws of Turkey, or its usages in its intercourse with the Franks or other foreign Christian nations.[2]

Jurisdiction in civil cases.

Words "minister" and "consul" defined.

SEC. 22. *And be it further enacted*, That the word minister, when used in this act, shall be understood to mean the person invested with, and exercising, the principal diplomatic functions in each of the countries mentioned in the first section of this act. The word consul shall be understood to mean any person invested by the United States with, and exercising, the functions of consul general, vice consul general, consul, or vice consul, in any of the countries herein

[1] See Statutes at Large, vol. viii. pp. 408, 409.

[2] See Opinions of the Attorneys General, vol. vii. pp. 495, *et seq.* 565-471.

named. And if at any time there be no minister of the United States in either of the countries hereinbefore mentioned, the judicial duties which are imposed by this act upon the minister shall devolve upon the consul general or consul residing at the capital of the country, who is hereby authorized and required to discharge the same.

Duties of consul at the capital in the absence of the minister.

SEC. 23. *And be it further enacted,* That all such officers shall be responsible for their conduct to the United States, and to the laws thereof, not only as diplomatic or consular functionaries, respectively, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligences and misconduct as public officers.

Judicial responsibility.

SEC. 24. *And be it further enacted,* That capital cases for murder or insurrection against the government of either of the countries hereinbefore mentioned, by citizens of the United States, or for offences against the public peace amounting to felony under the laws of the United States, may be tried before the minister of the United States in the country where the offence is committed if allowed jurisdiction; and it shall be competent for each of the said ministers to issue all manner of writs, to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by a resort to such force as may at the time be within his reach, belonging to the United States.

Capital cases to be tried before the minister.

Issue of writs.

Foreign enlistment.

Resort to force.

SEC. 25. *And be it further enacted,* That the Presi-

Appointment of marshals.

dent be, and he is hereby, authorized to appoint marshals for such of the consular courts in the said countries as he may think proper, not to exceed seven in number, namely, one in Japan, four in China, one in Siam, and one in Turkey, who shall each receive an annual salary of one thousand dollars per annum, in addition to the fees allowed by the regulations of the said ministers, respectively, in the said countries; and it shall be the duty of the said marshals, respectively, to execute all process issued by the minister of the United States in the said countries, respectively, or by the consul at the port at which they reside, and to make due return of the same to the officer by whom the same was issued, and to conform, in all respects, to the regulations prescribed by the said ministers, respectively, in regard to their duties. And the said marshals shall give bond for the faithful performance of the duties of the office, before entering upon the duties of the same, which bond shall be in a penal sum not to exceed ten thousand dollars, with two sureties to be approved by the Secretary of State of the United States; and the said bond shall be transmitted to the Secretary of the Treasury, and a certified copy thereof be lodged in the office of the minister. And in case any person aggrieved by the misconduct of any of the said marshals should desire to bring suit upon any of the said bonds, it shall be the duty of the Secretary of the Treasury, or the minister having custody of a copy of the same, to furnish the person so applying with a certified copy thereof, upon which copy so furnished and certified suit may be brought and prosecuted with the same effect as could be done upon the original: *Provided*, That upon a plea of *non est factum*,

Salary.

Fees.

Duties of marshals.

Bonds to be given.

Penalty.

Disposition of bond.

Suits upon bonds.

verified upon oath, or any other good cause shown, the court or the consul or minister trying the cause may require the original to be produced; and when so required, it shall be the duty of the Secretary of the Treasury to forward the original bond to the court or consul or minister requiring the same: *And provided further*, That before a copy of any such bond shall be furnished for suit, it shall be the duty of the Secretary of the Treasury, or the minister to whom the application is made, to require *prima facie* proof, to be judged of by the Secretary of the Treasury or the minister having charge of the copy, that there is probable cause of action against the marshal making the bond: *And provided, further*, That all rules, orders, writs, and processes of every kind which are intended to operate or be enforced against any of the said marshals, in any of the countries named in this act, shall be directed to and executed by such person as may be appointed for that purpose by the minister or consul issuing the same.

Production of bond.

Probable cause of action to be shown.

Appointment of special marshals.

SEC. 26. *And be it further enacted*, That the President be, and is hereby, authorized to allow, in the adjustment of the accounts of each of the said ministers or consuls, the actual expenses of the rent of suitable buildings, or parts of buildings, to be used as prisons for American convicts in the said countries, not to exceed in any case the rate of six hundred dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed, in any case, the sum of eight hundred dollars per annum, and provided that no more than one prison shall be hired in Japan, four in China, one in Turkey, and one in Siam, at such port or ports as the minister, with the sanction of the President, may designate.

Rent of prisons to be allowed.

Wages of keepers.

Care of offenders.

Number of prisons.

Jurisdiction of ministers, original and appellate.

SEC. 27. *And be it further enacted*, That the jurisdiction of the respective ministers in the countries hereinbefore named, where the same is allowed by treaty, in all matters of civil redress or of crimes, except in the cases mentioned in the twenty-fourth section, shall be appellate only, and to be exercised wherever in the said countries they may be, respectively, except also in cases where a consular officer shall happen to be interested either as party or witness, in which case original jurisdiction is vested in the said ministers, respectively.

Jurisdiction of minister when the consul is interested as a witness or party.

Suits and disputes in Persia.

SEC. 28. *And be it further enacted*, That the provisions of this act be, and the same are hereby, extended to Persia in respect to all suits and disputes which may arise between citizens of the United States therein; and the minister and consuls who may be appointed to reside in Persia are hereby invested, in relation to the said suits and disputes, with such powers as are by this act conferred upon the minister and consuls in China. And all suits and disputes arising in Persia[1] between Persian subjects and citizens of the United States, shall be carried before the Persian tribunal, to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. And all suits and disputes occurring in Persia between the citizens of the United States and

Persian tribunal.

Duty of consul.

[1] Treaty with Persia, see Statutes at Large, vol. xi. pp. 709–711.

Treaties with the Barbary States and Muscat, see Statutes at Large, vol. viii. pp. 154, 214, 157, 298; 100, 484, 458.

the subjects of other foreign powers, shall be tried and adjudicated by the intermediation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agreed upon by the minister of the United States for the time being, and the ministers of such foreign powers, respectively, which regulations shall, from time to time, be submitted to the Secretary of State of the United States.

Intermediation of ministers and consuls in Persia.

SEC. 29. *And be it further enacted,* That the provisions of this act, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco, and Muscat, respectively, shall extend to those countries, and shall be executed in conformity with the provisions of the said treaties, and of the provisions of this act, by the consuls appointed by the United States to reside therein, who are hereby, *ex officio,* invested with the powers herein delegated to the ministers and consuls of the United States appointed to reside in the countries named in the first section of this act, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the said countries in their intercourse with the Franks or other foreign Christian nations.

Jurisdiction in the Barbary States.

SEC. 30. *And be it further enacted,* That the consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognized by any treaty with the United States, be, and the same are hereby, authorized to try, hear, and determine all cases in regard to civil rights, whether of person or property, where the real debt and damages do not exceed the sum of one thousand

Jurisdiction of consuls and commercial agents in certain islands and countries.

dollars, exclusive of costs, and upon full hearing of the allegations and evidence of both parties to give judgment according to the laws of the United States, and according to the equity and right of the matter, in the same manner as justices of the peace are now authorized and empowered where the United States have exclusive jurisdiction. And the said consuls and commercial agents, respectively, are hereby invested with the powers conferred by the provisions of the seventh and eighth sections of this act for trial of offences or misdemeanors.[1]

Marriages by a consular officer.

SEC. 31. *And be it further enacted*, That all marriages in the presence of any consular officer in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall have the same force and effect, and shall be valid to all intents and purposes, as if the said marriage had been solemnized within the United States. And in all cases of marriage before any consular officer, the said consular officer shall give to each of the parties a certificate of such marriage, and shall also send a certificate thereof to the Department of State, there to be kept; which certificate shall specify the names of the parties, their ages, places of birth, and residence.[2]

Certificates of marriages.

Repealing section.

SEC. 32. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act shall be, and the same are hereby, repealed.

Act when to take effect.

SEC. 33. *And be it further enacted*, That this act shall take effect on the first day of July, eighteen hundred and sixty.[3]

APPROVED June 22, 1860.

[1] Opinions of the Attorneys General, vol. viii. pp. 345–349, 380–386.

[2] Ibid. vol. vii. pp. 18, 32, 342, 349.

[3] Treaties were negotiated with China July 3, 1844, (see Statutes at

AN ACT to increase the consular representation of the United States during the present insurrection.[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may, by and with the advice and consent of the Senate, appoint consuls at any foreign ports where he shall deem it advisable, for the purpose of preventing piracy, with such compensation, not exceeding fifteen hundred dollars per annum, as he shall think proper; to hold their offices, respectively, during the pleasure of the President, and in every case such compensation to cease with the restoration of internal peace within the United States. And the President may, during the present insurrection, increase the compensation of any consuls in foreign ports, if he shall deem it necessary, so as not, however, to exceed the sum of fifteen hundred dollars in any case. But this power shall cease with the re-establishment of internal peace as aforesaid.[2]

Consuls may be appointed for certain foreign ports.

Salary.

Pay of certain consuls may be increased.

Power, when to cease.

APPROVED August 2, 1861.

Large, vol. viii. p. 592,) and June 18, 1858, and a convention November 8, 1858.

Treaties were negotiated with Japan March 31, 1854, and June 17, 1857, (see Statutes at Large, vol. xi. pp. 597, 598, and 723, 724,) and July 29, 1858.

A treaty was negotiated with Persia December 13, 1856, (see Statutes at Large, vol. xi. pp. 709, 711.)

Treaties were negotiated with Siam March 20, 1833, (see Statutes at Large, vol. viii. pp. 454, 455,) and May 29, 1856, (see Statutes at Large, vol. xi. pp. 683, 689.)

[1] See Statutes at Large, vol. xii. p. 285.

[2] See modification of this act (page 371) by the first section of the "Act making appropriations for the consular and diplomatic expenses of the government for the year ending thirtieth June, eighteen hundred and sixty-three, and additional appropriations for the year ending thirtieth June, eighteen hundred and sixty-two."

AN ACT to reduce consular fees for vessels running to or between foreign ports.[1]

Consular fees for certain vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That American vessels running regularly by weekly or monthly trips, or otherwise, to or between foreign ports, shall not be required to pay fees to consuls for more than four trips in a year, anything in the law or regulations respecting consular fees to the contrary notwithstanding.

APPROVED August 5, 1861.

AN ACT making appropriations for the consular and diplomatic expenses of the government for the year ending thirtieth June, eighteen hundred and sixty-three, and additional appropriations for the year ending thirtieth June, eighteen hundred and sixty-two.

EXTRACTS.

Be it enacted, etc.

* * * * * * *

Salary of interpreter at Kanagawa.

For compensation to an interpreter to the consulate at Kanagawa, fifteen hundred dollars.

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Salary of consul at Bremen.

And the salary of the consul at Bremen shall be three thousand dollars, to commence on the first day of January, eighteen hundred and sixty-two; and the consul at Pictou (Nova Scotia) shall receive a salary of fifteen hundred dollars, to commence on the first day of January, eighteen hundred and sixty-two; and the salary of the consul at Swatow shall be thirty-five hundred dollars, to commence on the twenty-first day of September, eighteen hundred and sixty; and the consul at Port Mahon shall receive a salary of

At Pictou.

At Swatow.

At Port Mahon.

[1] Statutes at Large, vol. xii. p. 315.

fifteen hundred dollars: *Provided*, That all consular officers whose respective salaries exceed one thousand dollars per annum shall be subject to the provisions of the fifth section of the act to regulate the diplomatic and consular systems of the United States, approved August eighteen, eighteen hundred and fifty-six; and their respective consulates shall be included in schedule B, of the list of salaried consulates: *And provided, further*, That no appointment of consuls shall hereafter be made, nor the compensation of consuls raised, under the act of August two, eighteen hundred and sixty-one, except to the places herein mentioned. And the consul at Newcastle-upon-Tyne shall receive a salary of fifteen hundred dollars per annum, commencing on the first day of January, eighteen hundred and sixty-two.

Consular officers whose salaries exceed $1000 not to engage in mercantile business.

Salary of consul at Newcastle-upon-Tyne.

* * * * * * *

For interpreters to the consulates in China, four thousand five hundred dollars.

Interpreters in China.

For salaries of the marshals for the consular courts in Japan, China, Siam, and Turkey, seven thousand dollars.

Marshals in consular courts

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

Prisons in Japan, etc.

SEC. 2. *And be it further enacted*, That the following sums be and the same are hereby appropriated for the service of the year ending the thirtieth June, eighteen hundred and sixty-two, namely:

Appropriation for 1862.

For compensation and increased salaries to sundry consuls, under the act of second August, eighteen hundred and sixty-one, fifty-four thousand one hundred and eleven dollars and ninety-seven cents.

Increased pay to certain consuls.

APPROVED February 4, 1862.

AN ACT to prohibit the "coolie trade" by American citizens in American vessels.

No citizen or resident of the United States shall prepare any vessel to procure from China coolies to be transported, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen or citizens of the United States, or foreigner coming into or residing within the same, shall, for himself or for any other person whatsoever, either as master, factor, owner, or otherwise, build, equip, load, or otherwise prepare, any ship or vessel, or any steamship or steam-vessel, registered, enrolled, or licensed, in the United States, or any port within the same, for the purpose of procuring from China, or from any port or place therein, or from any other port or place, the inhabitants or subjects of China, known as "coolies," to be transported to any foreign country, port, or place whatever, to be disposed of, or sold, or transferred, for any term of years or for any time whatever, as servants or apprentices, or to be held to service or labor. And if any ship or vessel, steamship or steam-vessel, belonging in whole or in part to citizens of the United States, and registered, enrolled, or otherwise licensed as aforesaid, shall be employed for the said purposes, or in the "coolie trade" so called, or shall be caused to procure or carry from China or elsewhere, as aforesaid, any subjects of the government of China, for the purpose of transporting or disposing of them as aforesaid, every such ship or vessel, steamship or steam-vessel, her tackle, apparel, furniture, and other appurtenances, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts of the United States for the district where the said ship or vessel, steamship or steam-vessel, may be found, seized, or carried.

Any vessel owned by citizens of the United States in whole or in part so employed shall be forfeited.

SEC. 2. *And be it further enacted*, That every person who shall so build, fit out, equip, load, or otherwise prepare, or who shall send to sea, or navigate, as owner, master, factor, agent, or otherwise, any ship or vessel, steamship or steam-vessel, belonging in whole or in part to citizens of the United States, or registered, enrolled, or licensed within the same, or at any port thereof, knowing or intending that the same shall be employed in that trade or business aforesaid, contrary to the true intent and meaning of this act, or in anywise aiding or abetting therein, shall be severally liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

Those building, equipping, navigating, etc. any such vessel, how punished.

SEC. 3. *And be it further enacted*, That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board of any vessel, or receive or transport any such persons as are above described in this act, for the purpose of disposing of them as aforesaid, he or they shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

Taking coolies on board a vessel or transporting them, etc. to dispose of them, how punished.

SEC. 4. *And be it further enacted*, That nothing in this act hereinbefore contained shall be deemed or construed to apply to or affect any free and voluntary emigration of any Chinese subject, or to any vessel carrying such person as passenger on board the same: *Provided, however*, That a permit or certificate shall be prepared and signed by the consul or consular agent of the United States residing at the port from which such vessel may take her departure, containing

This act not to interfere with voluntary emigration of the Chinese.

Consular certificate required in such case.

the name of such person, and setting forth the fact of his voluntary emigration from such port or place, which certificate shall be given to the master of such vessel; but the same shall not be given until such consul or consular agent shall be first personally satisfied by evidence produced of the truth of the facts therein contained.

Provisions of acts relating to passengers in merchant vessels to apply to such vessels carrying passengers between foreign ports.

SEC. 5. *And be it further enacted*, That all the provisions of the act of Congress approved February twenty-second, eighteen hundred and forty-seven, entitled "An act to regulate the carriage of passengers in merchant vessels," and all the provisions of the act of Congress approved March third, eighteen hundred and forty-nine, entitled "An act to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels and the regulation thereof," shall be extended and shall apply to all vessels owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed within the United States, propelled by wind or by steam, and to all masters thereof, carrying passengers or intending to carry passengers from any foreign port or place without the United States to any other foreign port or place without the United States; and that all penalties and forfeitures provided for in said act shall apply to vessels and masters last aforesaid.

President may order vessels of war to examine vessels supposed to have "coolies" on board.

SEC. 6. *And be it further enacted*, That the President of the United States shall be and he is hereby authorized and empowered, in such way and at such time as he shall judge proper to the end that the provisions of this act may be enforced according to the true intent and meaning thereof, to direct and order the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated

or owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed under the laws of the United States, wherever they may be, whenever, in the judgment of such master or commanding officer thereof, reasonable cause shall exist to believe that such vessel has on board, in violation of the provisions of this act, any subjects of China known as "coolies," for the purpose of transportation; and upon sufficient proof that such vessel is employed in violation of the provisions of this act, to cause such vessel to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and disposed of according to the provisions of this act.

If any vessel is employed in violation of this act, it is to be sent to the United States.

SEC. 7. *And be it further enacted*, That this act shall take effect from and after six months from the day of its passage.

When act to take effect.

APPROVED February 19, 1862.

AN ACT to authorize the President of the United States to appoint diplomatic representatives to the Republics of Hayti and Liberia, respectively.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is authorized, by and with the advice and consent of the Senate, to appoint diplomatic representatives of the United States to the Republics of Hayti and Liberia, respectively. Each of the said representatives so appointed shall be accredited as commissioner and consul general, and shall receive the compensation of commissioners according to the act of Congress approved August eighteen, eighteen hundred and fifty-six: *Provided*, That the annual

Diplomatic representatives to Hayti and Liberia.

Rank.

Pay.

compensation of the representative at Liberia shall not exceed four thousand dollars.

APPROVED June 5, 1862.

AN ACT to provide internal revenue to support the government, and to pay interest on the public debt.

EXTRACT.

Issue of passports.

SEC. 87. *And be it further enacted*, That for every passport issued from the office of the Secretary of State after the thirtieth day of June, eighteen hundred and sixty-two, there shall be paid the sum of three dollars, which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State or any agent appointed by him. And the collectors shall account for all moneys received for passports in the manner hereinbefore provided. And a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account to the treasury.

APPROVED July 1, 1862.

AN ACT increasing, temporarily, the duties on imports, and for other purposes.[1]

EXTRACT.

After Nov. 1, 1862, no goods to be admitted to entry, unless the invoice is verified by oath.

SEC. 17. *And be it further enacted*, That from and after the first day of November, eighteen hundred and sixty-two, no goods, wares, or merchandise subject to ad valorem or specific duty, whether belonging to a person or persons residing in the United States or otherwise, or whether acquired by the ordinary process of bargain and sale, or otherwise, shall be ad-

[1] See Circular No. 17. July 31, 1862.

mitted to entry, unless the invoice of such goods, wares, or merchandise be verified by the oath of the owner or one of the owners, or in the absence of the owner, one of the party who is authorized by the owner to make the shipment and sign the invoice of the same, certifying that the invoice annexed contains a true and faithful account, if subject to ad valorem duty and obtained by purchase, of the actual cost thereof, and of all charges thereon, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have actually been allowed on the same; and when consigned or obtained in any manner other than by purchase, the actual market value thereof, and if subject to specific duty, of the actual quantity thereof; which said oath shall be administered by the consul or commercial agent of the United States in the district where the goods are manufactured, or from which they are sent; and if there be no consul or commercial agent of the United States in the said district, the verification hereby required shall be made by the consul or commercial agent of the United States at the nearest point, or at the port from which the goods are shipped, in which case the oath shall be administered by some public officer, duly authorized to administer oaths, and transmitted with a copy of the invoice to the consul or commercial agent for his authentication; and this act shall be construed only to modify, and not repeal, the act of March first, eighteen hundred and twenty-three, entitled "An act supplementary to, and to amend an act entitled 'An act to regulate the collection of duties on imports and tonnage,' passed second March, one thousand seven hundred and ninety-nine, and for other purposes," and the forms of the oaths therein

Oath to certify what.

By whom administered.

This act modifies and does not repeal act of 1823.

set forth shall be modified accordingly. And there shall be paid to the said consul, vice consul, or commercial agent, by the person or persons by or in behalf of whom the said invoices are presented and deposited, one dollar for each and every invoice verified, which shall be accounted for by the officers receiving the same, in such manner as is now required by the laws regulating the fees and salaries of consuls and commercial agents: *Provided*, That nothing herein contained shall be construed to require for goods imported under the reciprocity treaty with Great Britain, signed June fifth, eighteen hundred and fifty-four, any other consular certificate than is now required by law: *And provided further*, That the provisions of this section shall not apply to invoices of goods, wares, and merchandise imported into the United States from beyond Cape Horn and the Cape of Good Hope, until the first day of April, one thousand eight hundred and sixty-three: *And provided further*, That the provisions of this section shall not apply to countries where there is no consul, vice consul, or commercial agent of the United States.

Consular fees.

Reciprocity treaty with Great Britain.

Invoices of goods from beyond the Cape of Good Hope.

Proviso where there is no consul, etc.

Consuls to report fraudulent practices.

SEC. 18. *And be it further enacted*, That from and after the date aforesaid it shall be the duty of consuls and commercial agents of the United States, having any knowledge or belief of any case or practice of any person or persons who obtain or should obtain verification of invoices as described in the preceding section, whereby the revenue of the United States is or may be defrauded, to report the facts to the collector of the port where the revenue is or may be defrauded, or to the Secretary of the Treasury of the United States.

SEC. 19. *And be it further enacted*, That from and

after the passage of this act the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March two, eighteen hundred and sixty-one, be and the same is hereby amended as follows, that is to say: First, in section twelve, before the word "eighteen," where it first occurs, strike out "less than;" second, in section twenty-three, after the words "artists residing abroad," strike out "provided the same be imported in good faith as objects of taste and not of merchandise," and insert "provided the fact, as aforesaid, shall be certified by the artist, or by a consul of the United States;" and in the same section, before the word "orpiment," insert "ores of gold and silver."

Amendment of act of 1854.

APPROVED July 14, 1862.

AN ACT to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes.[1]

EXTRACT.

SEC. 3. *And be it further enacted*, That goods imported under the reciprocity treaty with Great Britain may be entered at any port on the northern, northeastern, and northwestern frontiers of the United States, upon satisfactory evidence being given to the collector at the port where such goods are offered for entry, that they are of the growth or production of Canada, without the consular certificate now required.

Goods under reciprocity treaty may be entered at any port on northern, etc. frontier.

SEC. 4. *And be it further enacted*, That for every entry of goods at any custom-house on the northern, northeastern, and northwestern frontiers of the United States, a fee of forty cents shall be charged by the collector, and accounted for to the government.

Fees for such entry.

APPROVED July 14, 1862.

[1] See Circular No. 17. July 31, 1862.

LIST OF THE PRINCIPAL ACTS OF CONGRESS IN WHICH THERE ARE REFERENCES TO THE DUTIES OF CONSULAR OFFICERS.

An act for the government and regulation of seamen in the merchant service. July 20, 1790. Statutes at Large, vol. i. p. 131.

An act concerning consuls and vice consuls. April 14, 1792. Statutes at Large, vol. i. p. 254.

An act for the relief and protection of American seamen. May 28, 1796. Statutes at Large, vol. i. p. 477.

An act for the relief of sick and disabled seamen. July 16, 1798. Statutes at Large, vol. i. p. 605.

An act to regulate the collection of duties on imports and tonnage. March 2, 1799. Statutes at Large, vol. i. p. 627.

An act to amend an act entitled "An act for the relief of disabled seamen," and for other purposes. May 3, 1802. Statutes at Large, vol. ii. p. 192.

An act supplementary to the "Act concerning consuls and vice consuls, and for the further protection of American seamen." February 28, 1803. Statutes at Large, vol. ii. p. 203.

An act in addition to the act entitled "An act supplementary to the act concerning consuls and vice consuls," and for the further protection of American seamen. February 28, 1801. Statutes at Large, vol. ii. p. 651.

An act fixing the compensation of public ministers and of consuls residing on the coast of Barbary, and for other purposes. May 1, 1810. Statutes at Large, vol. ii. p. 608.

An act for the regulation of seamen on board the public and private vessels of the United States. March 3, 1813. Statutes at Large, vol. ii. p. 809.

An act authorizing the deposit of the papers of foreign vessels with the consul of their respective nations. March 3, 1817. Statutes at Large, vol. iii. p. 362.

An act supplementary to "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine. April 20, 1818. Statutes at Large, vol. iii. p. 433.

An act supplementary to and to amend an act entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and for other purposes. March 1, 1823. Statutes at Large, vol. iii. p. 729.

An act to prescribe the punishments of consuls, commercial agents, and others, in certain cases. March 3, 1835. Statutes at Large, vol. iv. p. 773.

An act in addition to the several acts regulating the shipment and discharge of seamen, and the duties of consuls. July 20, 1840. Statutes at Large, vol. v. p. 394.

An act to amend an act entitled "An act to provide for the enlistment of boys for the naval service, and to extend the term of enlistment of seamen." February 20, 1845. Statutes at Large, vol. v. p. 725.

An act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes. March 3, 1845. Statutes at Large, vol. v. p. 748.

An act more effectually to provide for the enforcement of certain provisions in the treaties of the United States. August 8, 1846. Statutes at Large, vol. ix. p. 78.

An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries. August 11, 1848. Statutes at Large, vol. ix. p. 276.

An act to provide for recording the conveyances of vessels, and for other purposes. July 29, 1850. Statutes at Large, vol. ix. p. 441.

An act to repeal so much of the act approved eleventh day of August, eighteen hundred and forty-eight, as extends the provisions thereof to Macao. September 20, 1850. Statutes at Large, vol. ix. p. 468.

An act to remodel the diplomatic and consular systems of the United States. March 1, 1855. Statutes at Large, vol. x. p. 619.

An act to regulate the diplomatic and consular systems of the United States. August 18, 1856. Statutes at Large, vol. xi. p. 52.

An act to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August eighteenth, eighteen hundred and forty-two, and for other purposes. August 18, 1856. Statutes at Large, vol. xi. p. 139.

An act making appropriations for the consular and diplomatic expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-eight. February 7, 1857. Statutes at Large, vol. xi. p. 169.

An act making appropriations for the legislative, executive, and judicial expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-eight. March 3, 1857. Statutes at Large, vol. xi. p. 220.

An act making appropriations for sundry civil expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-nine. June 12, 1858. Statutes at Large, vol. xi. p. 328.

An act making appropriations for the consular and diplomatic expenses of the government for the year ending the thirtieth of June, eighteen hundred and sixty. March 3, 1859. Statutes at Large, vol. xi. p. 404.

An act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls or other functionaries of the United States in those countries, and for other purposes. June 22, 1860. Statutes at Large, vol. xii. p. 72.

An act to increase the consular representation of the United States during the present insurrection. August 2, 1861. Statutes at Large, vol. xii. p. 285.

An act to reduce consular fees for vessels running to or between foreign ports. August 5, 1861. Statutes at Large, vol. xii. p. 315.

An act making appropriations for the consular and diplomatic expenses of the government for the year ending thirtieth June, eighteen hundred and sixty-three, and additional appropriations for the year ending thirtieth June, eighteen hundred and sixty-two. February 4, 1862. Statutes at Large, vol. xii. p. 335.

An act to prohibit the "Coolie trade" by American citizens in American vessels. February 19, 1862. Statutes at Large, vol. xii. p. 340.

An act to provide internal revenue to support the government, and to pay interest on the public debt. July 1, 1862. Statutes at Large, vol. xii. p. 433.

An act increasing temporarily the duties on imports, and for other purposes. July 14, 1862. Statutes at Large, vol. xii. p. 543.

An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontier, and for other purposes. July 14, 1862. Statutes at Large, vol. xii. p. 571.

DIGEST OF "OPINIONS OF THE ATTORNEYS GENERAL" IN REGARD TO CONSULS.

1. A consul is not a public minister, nor entitled to the privileges attached to the person of such an officer. (1: 41.)[1]

2. A riot before the house of a foreign consul by a tumultuous assembly requiring him to give up certain persons supposed to be resident with him, and insulting him with improper language, is not an offence within the act of 30th April, 1790, for the punishment of certain crimes against the United States, and cannot be prosecuted in the courts of the United States. (*Ibid.*)

3. A consul of the United States for Tunis, with instructions from the Department of State authorizing him, if he could find a suitable channel through which to negotiate the immediate release of the American prisoners at Algiers, to go as far as three thousand dollars per man, employed an agent, by promise of reward, to effect the object, and then drew bills on the State Department for such compensation, and for money paid, etc. in favor of a merchant at Gibraltar: *Held*, that the employment of an agent was justified under the power, but that the true meaning of the instructions was lost sight of by the manner of the employment of the agent for a compensation. (1: 196.)

4. A consul is not privileged from legal process by the law of nations, nor is the French consul general by the consular convention between the United States and France; and though the suit

[1] The figures refer to the volume and page of "Opinions of the Attorneys General of the United States," where the opinion will be found at length.

arose out of public transactions, the President cannot interpose his authority. (1: 77.)

5. It is not essential to the validity of a consular bond that it should be attested. (1: 378.)

6. Foreign consuls and vice consuls are not public ministers within the law of nations or the acts of Congress, but are amenable to the civil jurisdiction of our courts. (1: 406.) See 2 *Dallas Rep.*, 297.

7. But consuls are bound to appear only in the Federal courts; the Constitution and laws, contemplating the responsibility of consuls, having provided these tribunals, in exclusion of the State courts, in which they shall answer. (*Ibid.*)

8. Consular jurisdiction depends on the general law of nations, existing treaties between the two governments affected by it, and upon the obligatory force and activity of the rule of reciprocity. (2: 378.)

9. French consular jurisdiction in an American port depends on the correct interpretation of the treaties existing between his most Christian Majesty and the United States, and which limit it to the exercise of police over French vessels, and jurisdiction in civil matters in all disputes which may there arise, and provide that such police shall be confined to the interior of the vessels, and shall not interfere with the police of our ports where the vessels shall be. They also provide that in cases of crimes and breaches of the peace, the offenders shall be amenable to the judges of the country. (*Ibid.*)

10. The claim of the French envoy, therefore, for the exercise of judicial power by the consul of his government in the port of Savannah, is not warranted by any existing treaties, nor by a rule of reciprocity which the executive has power to permit to be exercised. (*Ibid.*)

11. The executive will pay to the widow of a consul, having a salary, who has died in office abroad, upon her return, the amount which it has been customary to pay to consuls themselves upon their recall, viz., his salary for three months.[1] (2: 521.)

12. The funeral expenses of the deceased consul, and the incidental and contingent expenses of the consulate after his death, are

[1] The law (or custom) under which this opinion was given has no longer existence.

a fair item of charge on the fund for the contingent expenses of foreign intercourse. (*Ibid.*)[1]

13. And where the son of the deceased consul remains at the port and discharges duties of consul, which are recognized by the government, he may receive the compensation fixed by law for such services. (*Ibid.*)

14. Foreign consuls in the United States are entitled to no immunities beyond those enjoyed by foreigners coming to this country in a private capacity, except that of being sued and prosecuted exclusively in the Federal courts. (2: 725.)

15. If any foreign consul shall be guilty of any illegal or improper conduct, he will be liable to the revocation of his exequatur, and to be punished according to our laws, or he may be sent back to his own country, at the discretion of our government. (*Ibid.*)

16. The act of Congress to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries, not having designated any particular place for the confinement of prisoners arrested for crime, the same is left for regulation under the fifth section, or, in the absence of any such regulation, to the discretion of the acting functionary. (5: 67.)

17. The expenses of arrest and support in prison, in such cases, must be paid from the fund created by the execution of the act. (*Ibid.*)

18. Whether the act embraces Egypt and the Barbary States, which are under the dominion of the Ottoman Porte, is a political question, which cannot be solved without the aid of the Department of State. (*Ibid.*)

19. In order that the master of a ship, on her "arrival" in a foreign port, shall be compellable to deposit the ship's papers with the consul, the arrival must be such a one as involves entry and clearance. (6: 168.)

20. Consuls have no authority to order the sale of a ship in a foreign port, either on complaint of the crew or otherwise. (6: 617.)

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[1] This opinion refers only to the case of a consul holding a diplomatic position.

21. If, on such sale, a consul retains money for the payment of seamen's wages, he acts at his own peril, and is responsible to the owners. (*Ibid.*)

22. The United States are not responsible in damages for moneys illegally received by consuls, or for any other act of malfeasance of theirs in office. (*Ibid.*)

23. Consuls of the United States have no lawful authority as such to solemnize marriages in countries comprehended within the pale of the international public law of Christendom. (7: 18.)

24. *Secus*, in countries not Christian, where by convention or in fact the rights of exterritoriality are possessed by citizens of the United States. (*Ibid.*)

25. It belongs exclusively to the President of the United States, by and with the advice and consent of the Senate, to appoint consular officers to such places as he and they deem to be meet. (7: 242.)

26. Consuls are officers created by the Constitution and the laws of nations, not by acts of Congress. (*Ibid.*)

27. Congress may by law vest the appointment of inferior consular officers in the President alone, or in the Secretary of State. (*Ibid.*)

28. When the act of the last Congress, remodelling the consular system, says that from and after the 30th of June next the President *shall* appoint consuls to certain places, it means that he *may* appoint them, if he see fit, with such reference to the advice and consent of the Senate as the Constitution prescribes. (*Ibid.*)

29. The act does not require him to appoint new consuls, or to reappoint the present incumbents, at the places mentioned, nor to remove consuls now existing at places not named in the act, nor to omit to appoint new ones at other places not named in it. (*Ibid.*)

30. The rates and the mode of compensation, by the act, take effect in regard to all consuls at the places named, and lawfully in office at the day fixed, whensoever they have been or shall be appointed. (*Ibid.*)

31. All the provisions of the act regarding the duties of consular officers take effect on the first of July. (*Ibid.*)

32. Nothing in the act forbids the continued appointment of vice consuls or consular agents, with approval of the Secretary of State. (*Ibid.*)

33. The several consuls for whom the act provides annual salaries

must collect and pay over all fees for consular service to the government. (*Ibid.*)

34. The penalty of removal from office, which the act of 1855 affixes to the non-performance of some duties by consuls, is inoperative, because removal from office cannot be enacted as a statute penalty, it being a matter for the constitutional discretion of the President. (*Ibid.*)

35. Consuls not duly accounting for fees collected for consular service are subject to indictment for the statute crime of embezzlement, in the terms of the act of 1846, which regulates the collection, safe keeping, and disbursement of public moneys. (*Ibid.*)

36. Consuls, commercial agents, vice consuls, and consular agents, for whom salaries are not provided by the act, are entitled to continue to receive fees for consular service. (*Ibid.*)

37. The act does not repeal any fees except those which it expressly mentions, and leaves all others as they now stand by act of Congress or regulations of department. (*Ibid.*)

38. The provisions of the act of 1855 against the appointment of any citizen of the United States, not actually residing therein or abroad in the public service at the time, is directory only, not mandatory on the President. (*Ibid.*)

39. In taking charge of the estates of citizens of the United States dying abroad, the power of consuls is limited to collecting the assets abroad, discharging them of local liabilities, reducing them to money, and transmitting to the treasury, subject to the orders, both before and afterwards, of the lawful executor or administrator. (*Ibid.*)

40. The rule for the distribution of the personal effects of any deceased citizen of the United States, either at home or abroad, is the law of the particular State of his domicile, and cannot be changed by act of Congress. (*Ibid.*)

41. Consuls general are the proper persons to hold consular posts in the capitals of the great transmarine dependencies of European powers, and to constitute the medium of communication with the local governor or captain general, and are appointable at the discretion of the President with consent of the Senate. (*Ibid.*)

42. A consul may be authorized to communicate directly with the government near which he resides; but he does not thereby acquire the diplomatic privileges of a minister. (7: 343.)

43. Nor does he, *as consul*, acquire such privileges by being appointed, as he may, at the same time, chargé d'affaires. (*Ibid.*)

44. To the question whether a consul can solemnize marriage or not, as consul, it is wholly immaterial whether he be or not a subject of the foreign government. (*Ibid.*)

45. The exterritoriality of foreign consuls in Turkey and other Mohammedan countries is entirely independent of the fact of diplomatic representation, and is maintained by the difference of law and religion; being but incidental to the fact of the established exterritoriality of Christians in all countries not Christian. (*Ibid.*)

46. Consuls, as international commercial agents, originated in the colonial municipalities of the Latin Christians in the Levant, which municipalities were self-governing through their "consuls," the ancient title of municipal magistrates in Italy. (*Ibid.*)

47. Rights of private exterritoriality having ceased to exist in Christendom, foreign consuls have ceased, mostly, to be municipal magistrates of their countrymen there; but they still continue not only international agents, but also administrative and judicial functionaries, of their countrymen in countries outside of Christendom. (*Ibid.*)

48. Foreign consuls are not exempted, either by treaty or the law of nations, from the penal effect of the statute of 1818. (7: 367.)

49. In case of indictment of any such consul or other official person, his conviction of the misdemeanor, or his escape by reason of arranged instructions or contrivances to evade the operation of the statute, is primarily a matter of domestic administration, altogether subordinate to the consideration of the national insult or injury to this government involved in the fact of a foreign government instructing its officers to abuse, for unlawful purposes, the privileges which they happen to enjoy in the United States. (*Ibid.*)

50. Masters of American vessels are subject to prosecution in the name of the consul, for omission to deposit with him the papers according to law, but not to indictment. (7: 395.)

51. In virtue of the treaty between the United States and China, all citizens of the United States in China enjoy complete rights of exterritoriality, and are amenable to no authority but that of the United States. (7: 495.)

52. The act of Congress empowers the commissioners and consuls

of the United States in China to exercise judicial authority over their fellow-citizens. (*Ibid.*)

53. The several consuls, each in his consular circumscription, have, by express provision of statute, original jurisdiction in all civil cases of contract, or the like sounding in damages, which arise between two or more citizens of the United States, and in all crimes committed by an American. (*Ibid.*)

54. In such civil matters of contract, or the like sounding in damages, the consul sits with or without assessors, according to circumstances; and in case of difference of opinion between him and his assessors, an appeal lies to the commissioner. (*Ibid.*)

55. In all criminal matters, except certain petty misdemeanors, the consul sits with assessors, and decides subject to appeal as in civil cases to the commissioner; save that in capital cases there is no appeal, but the conviction is invalid unless approved by the commissioner. (*Ibid.*)

56. In controversies between citizens of the United States and subjects of China, the case is to be tried by the court of the defendant's nation; and so in controversies between citizens of the United States and those of any friendly foreign government. (*Ibid.*)

57. The consular court has no authority by the treaty or the statute to entertain jurisdiction of a suit by the Chinese government for duties. (*Ibid.*)

58. In all criminal matters, and in all civil matters of contract, or the like sounding in damages, the commissioner has only appellate jurisdiction. (*Ibid.*)

59. As to all other matters, such as probate of wills, divorce, intestacy, copartnership, chancery, admiralty, proceedings *de re* or *in rem*, personal or prerogative writs, division of lands, and the like, the statute makes no specific provision, leaving them to regulations of the commissioner and consuls. (*Ibid.*)

60. Vice consuls are competent to act, when duly appointed or approved as such by the Secretary of State. (*Ibid.*)

61. A substitute, or vice consul, left in charge of the consulate during the temporary absence of the consul, is to be compensated out of the statute emoluments of the office, subject to regulations of the department. (7: 714.)

62. An acting consul, in charge of a consulate during actual

vacancy of the consulate, is entitled to receive the statute compensation of the office. (*Ibid.*)[1]

63. The estates of foreigners dying in the United States are settled by the local authorities. (8: 98.)

64. Administration may be granted to the next of kin if he reside in the State. (*Ibid.*)

65. The consul of the decedent's country has no jurisdiction; he may intervene by way of advice, or in the sense of surveillance, but not otherwise *as consul*, and of right. (*Ibid.*)

66. If the decedent leave a will intended to operate in his own country, it is the right of the consul, and his duty, if the circumstances require it, that is, in the absence of adult heirs on the spot, to see to the safe keeping of the will, and its transmission to the parties entitled. (*Ibid.*)

67. Sundry legislative acts of the United States proceed on the assumption that American consuls, in foreign countries, will collect and remit the assets of deceased Americans. Their authority to do this will depend, of course, on the law of the foreign country: if permitted by that law, and so far as permitted, the consul may do it, but not otherwise, nor further, unless allowed by treaty. And so it is with respect to foreign consuls in the States of the Union. (*Ibid.*)

68. Citizens of the United States who hold foreign consulates in the United States, are not exempt from jury duty or service in the militia by the law of nations, or by the Constitution and laws of the United States, nor unless exempted by the statutes of the State of the Union in which they may respectively reside. (8: 173.)

69. Consuls of the United States, in foreign countries, are required to see to persons charged with the commission of crimes at sea or in port, under circumstances giving jurisdiction to the courts of the United States, and have authority to send home for trial, and in that view, to inquire into the facts of the alleged crime. (8: 380.)

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[1] It is not competent for a neutral consul, without the special authority of his government, to interpose a claim on account of the violation of the territorial jurisdiction of his country. (*The Anne*, 3 Wheat. 435.)

A vice consul, duly recognized by our government, is a competent party to assert or defend the rights of property of individuals of his nation in a court of admiralty. (*The Bello Corrunes*, 6 Wheat. 152.)

70. But the authority of the consul, in such cases, is ministerial, not judicial, in its nature. (*Ibid.*)

71. If a crime be committed on the high seas, the master may detain the party for trial; on touching at a foreign port the party may apply to the consul for discharge; and it may be the duty of the consul either to grant or refuse the discharge; and, in the latter case, he may have occasion to call on the local authorities to aid in detaining the party, or in providing to send him home for trial. (*Ibid.*)

72. The power of the consul is to refuse to discharge, or at most to detain, or call on the master, or the local authorities, or a man-of-war of his country, to detain a person so charged with crime. (*Ibid.*)

73. In order to determine whether he shall detain or require detention, the consul must inquire into, and in some sense judge and decide the question of culpability. He must, of necessity, inquire in the usual way, that is, by hearing testimony, not as a judicial officer, but as consul. As to judgment, that is, deciding whether to detain or not to detain, he must have large discretion. He need not detain men upon such suspicion of guilt as would justify an examining magistrate in holding to bail within the United States. There is no judge at hand to supervise the propriety of such detention by writ of *habeas corpus*, or to admit bail on motion. The consul, in order to induce him to detain, may well require stronger probable cause of belief in guilt than an examining magistrate. He may do this in the interest of the party, and he may do it in the interest of the government, which must defray the expenses of the detention and custody of the party and of his conveyance to the United States. (*Ibid.*)

74. If the offence be committed in port, or so soon as the ship arrives in port, it becomes the duty of the consul, by express provision of the statute, to receive and hear the complaints of the ship's company. (Act of July 20, 1840, § 16.) And, on the other hand, it is the right of the master, in such circumstances, to demand the assistance of the consul, who is to advise, aid, and, if need be, direct, the master as to the further detention of the party as a criminal, and his immediate transmission to his country. (*Ibid.*)

75. If the offence be committed in port and the local authorities

do not take jurisdiction, then also the consul is to advise and aid the master in the disposition of the party, in order to his transmission to the United States for trial. (*Ibid.*)

76. His obligations and his powers go no further than to inquire, in order to decide what his duty is in the given case, to take evidence of the facts, to collect and see to the presentation of documents and material proofs, to draw up a statement of the facts to be reported to his government, and if, in his judgment, the facts require it, to see to the further detention of the party and his transportation to the United States. (*Ibid.*)

The foregoing remarks, in relation to the duties of consuls in regard to criminals, apply more especially to the case of consuls in the governments of Christendom having treaty relations with the United States. Those of China, Turkey, and Japan stand on their peculiar footing.

NEWLY-ESTABLISHED CONSULATES.

Consulates recently established, or the compensation of which has been altered by authority of Congress.

By the provisions of the act of Congress of August 2, 1861, the President was authorized to appoint consuls at any foreign ports where he might deem it advisable, with such compensation as he might think proper, not exceeding fifteen hundred dollars per annum; and he was also authorized, if he deemed it necessary, to increase the compensation of consuls in foreign ports, so as not, however, to exceed the sum of fifteen hundred dollars in any case.

The following letter[1] from the Secretary of State, in answer to a resolution of the Senate of January 10, in relation to the number, names, and residences of all consuls and commercial agents appointed under the act of August 2, 1861, will show what has been done under the authority thus conferred:

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[1] January 13, 1862. Read in the Senate, and, on motion of Mr. Foot, ordered to lie on the table, and to be printed.

DEPARTMENT OF STATE,
Washington, January 11, 1862.

The Secretary of State, to whom was referred the resolution of the Senate of the 10th instant, by which he is "directed to communicate to the Senate the number, names, and residences of all consuls and commercial agents appointed under the act of August 2, 1861, entitled 'An act to increase the consular representation of the United States during the present insurrection,' and to what places appointed; also to furnish to the Senate a statement showing what increase has been made in the compensation of consuls in foreign ports, to what consuls and to what ports," has the honor to transmit herewith a tabular statement, in which is embodied the information desired by the Senate, and also a copy of a communication, dated the 8th instant, addressed to Hon. William P. Fessenden, Chairman of the Committee on Finance, in explanation of the views of the Department in regard to this subject.

Respectfully submitted.

WILLIAM H. SEWARD.

To the SENATE *of the United States.*

EXTRACTS.

Mr. Seward to Mr. Fessenden.

DEPARTMENT OF STATE,
Washington, January 8, 1862.

SIR:—I have the honor to acknowledge the receipt of your communication of the 7th instant, in which you request this Department "to furnish the Committee on Finance with a list of places to which consuls have been appointed under the act of August 2, 1861; also of which the salaries have been raised, together with the names and residences of said consuls, the amount of their salaries, respectively, and the reasons which induced the appointment or increase of salary in such case."

In compliance with the desire of the committee to be furnished with the information thus requested, I transmit herewith, in tabular form, for the convenience of the committee, a list of the consulates, in alphabetical order, which have been created or the salaries of which have been increased, with the names and residences of the

consuls, together with brief remarks, showing in each case what was the compensation of the offices prior to the date of the act of August 2, 1861, what compensation it is proposed shall now be provided for these consulates, respectively, and also some explanation in regard to the reasons which induced the creation of the office or the increase of the compensation.

It will be seen from this list that seven consular offices only have been *created*, with salaries of fifteen hundred dollars each; the compensation of two has been increased from five hundred dollars per annum to fifteen hundred dollars; one from seven hundred and fifty dollars to fifteen hundred dollars; six from one thousand dollars to fifteen hundred dollars; of thirty-three the compensation has been changed from fees, with liberty to trade, to salaries of fifteen hundred dollars each, accompanied by a restriction prohibiting the consular officers from engaging in private business.

It has been found by experience that the government is best served when the consular officer is prohibited from trade and required to devote his whole time to the public business.

In addition to what appears in the tabular statement, I think it proper to remark that * * * * * * * the Department was induced to appoint, under the provisions of the act of August 2, consuls with a fixed compensation, and prohibited under bonds from engaging in private business, or to change the compensation from fees, with liberty to trade, to a fixed salary, at the principal ports in the West Indies, at four ports in Mexico, two in Central America, three in Brazil, and one in Venezuela.

For the protection of our commerce in the Mediterranean, where it is much exposed to danger, salaried consuls have been appointed, with the same restriction as to engaging in business, or the compensation has been changed from fees, as above, to salary, at Algiers, at two ports on the southern coast of Spain, Barcelona, and Valencia, with which there was formerly direct commercial intercourse with the Southern States, and where, in consequence, it was believed there was prevailing an interest in favor of the insurgents; at Lisbon, at the suggestion of our minister in Portugal; at three important ports in Italy, three in France, one in the Black Sea, and two in Turkey. For a similar reason two appointments have been made at ports on the northern coast of Spain; one in Norway, where we had no con-

sul; two in Sweden, for the protection of our commerce in the Baltic, and three in the Chinese and Eastern seas, where our commercial interests are of great and increasing importance.

* * * * * * * The Department was induced to appoint salaried consuls, with the above-mentioned restriction, at Bristol and Cardiff, in England, at St. John, Newfoundland, Prince Edward Island, and also to recommend a salary for the consulate at Pictou, Nova Scotia. * * * * * * * * *

The result has shown the wisdom of the law of August last. By every steamer important information is received from our consuls abroad. * * * * * * * * * *

In the enumeration above of salaried consular offices in the Mediterranean, I omitted to mention Malta. This island, from its central position, its military occupation, and its means of telegraphic communication, has become a very important consular post. The consul has repeatedly, within a few weeks, rendered valuable services. Since commencing this communication, the Department has received from him a despatch, an extract from which is herewith enclosed for your information, and to illustrate what I have stated.

Two salaried consular offices have been established in Canada—one at Quebec and one at Gaspé Basin. * * * * * *

The salary of the commercial agency at Gaboon, in Africa, which has long been vacant, was raised from one thousand to fifteen hundred dollars, in the hope that it might induce some American citizen to take charge of the post for the protection of our commercial interests in that quarter, and to prevent the abuse of our flag in the slave trade.

The appropriation which is now asked for the consular service is four hundred and thirty-five thousand dollars. This amount includes not only the compensation of the consular officers and interpreters, but also all expenses for rent of consular offices, record books, seals, flags, postage and other miscellaneous expenses, together with the expenses of the consular courts in Turkey, China, Japan, and Siam. From the above-named sum should be deducted at least one hundred thousand dollars, the amount of fees which will be paid into the treasury of the United States by the salaried consular officers, that being about the average for the last six years.

It will thus be seen that the whole expense of our consular estab-

lishment, embracing nearly five hundred consular officers, is about three hundred and thirty-five thousand dollars per annum.

In view of the protection which is thus given to citizens and seamen of the United States in foreign countries, and the services rendered to American commerce, in its development and protection, and the influence exercised by such a number of loyal and intelligent men, residing in the principal ports and cities of the world, in giving a proper tone to public sentiment through the correction of misstatements, and by truly representing the American character, it will readily be seen that these disbursements of the government of the United States are judiciously, economically, and usefully expended.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

HON. WILLIAM P. FESSENDEN,
Chairman of Committee on Finance, United States Senate.

List of Consular Offices with a salary of $1500 each, either newly created or the compensation of which has been increased, under the act of August 2, 1861.

Consulate.	Country.	Remarks.
Algiers	Africa	Formerly fees; now $1500.
Ancona	Pontifical States	Do. do.
Bahia	Brazil	Increased from $1000.
Barbadoes*	West Indies	Formerly fees; now $1000.
Barcelona	Spain	Do. now $1500.
Bergen	Norway	Do. do.
Bermuda		Do. do.
Bilbao	Spain	Do. do.
Bristol	England	Do. do.
Candia	Turkey	Increased from $1000 to $1500.
Cardiff	Wales	Created, $1500.
Galatza	Moldavia	Formerly fees; now $1500.
Gaspé Basin	Canada	Do. do.
Gottenburg	Sweden	Do. do.
La Paz	Mexico	Do. do.
La Union	San Salvador	Do. do.
Lisbon	Portugal	Created, $1500.
Macao	China	Formerly fees; now $1500.
Malta		Do. do.
Maracaibo	Venezuela	Do. do.
Nantes	France	Do. do.
Napoleon Vendée	Do.	Do. do.
Nice	Do.	Do. do.
Otranto	Italy	Created, $1500.
Paramaribo	Dutch Guiana	Formerly fees; now $1500.
Prince Edward Island	British N. A. Province.	Increased from $1000 to $1500.
Quebec	Canada	Created, $1500.
Santander	Spain	Formerly fees; now $1500.
Santos	Brazil	Do. do.
Scio	Turkey	Created, $1500.
Stockholm	Sweden	Formerly fees; now $1500.
St. Catharine	Brazil	Do. do.
St. John	Newfoundland	Do. do.
St. Pierre	Martinique, W. I.	Do. do.
Swatow†	China	Do. do.
Tabasco	Mexico	Increased from $500.
Tampico	Do.	Increased from $1000.
Taranto	Italy	Created, $1500.
Tehuantepec	Mexico	Formerly fees; now $1500.
Trinidad	West Indies	Do. do.
Valencia	Spain	Do. do.
Venice	Italy	Increased from $750.
Commercial Agencies.		
Amoor River	Siberia	Increased from $1000.
Antigua	West Indies	Formerly fees; now $1500.
Aux Cayes	Hayti	Increased from $500.
Balize	Honduras	Formerly fees; now $1500.
Curaçoa	West Indies	Do. do.
Gaboon	Africa	Increased from $1000.
St. Marc	Hayti	Created, $1500.

* Reduced, by special instruction, to $1000.

† Increased to $1500 under the act of February 4, 1862.

LIST OF CONSULATES GENERAL, CONSULATES, COMMERCIAL AGENCIES, AND CONSULAR AGENCIES OF THE UNITED STATES, WITH THE COMPENSATION ATTACHED TO EACH.

I.—CONSULATES GENERAL.

Schedule B.

Alexandria	$3,500
Calcutta	5,000
Constantinople	3,000
Frankfort-on-the-Main	3,000
Havana	6,000
Montreal	4,000

II.—CONSULATES GENERAL.

Not embraced in Schedule B or C.

Florence	Fees.

III.—CONSULATES.

Schedule B.

Acapulco	2,000
Aix-la-Chapelle	2,500
Algiers	‡1,500
Amoy	3,000
Amsterdam	1,000
Ancona	‡1,500
Antwerp	2,500
Aspinwall	2,500
Bahia	†1,000
Barcelona	‡1,500
Basle	2,000
Belfast	2,000
Beirout	2,000
Bergen	‡1,500
Bermuda	‡1,500
Bilbao	‡1,500
Buenos Ayres	$2,000
Bordeaux	2,000
Bremen	3,000
Bristol	‡1,500
Cadiz	1,500
Callao	3,500
Candia	†1,000
Canton	4,000
Cardiff	‡1,500
Cork	2,000
Demerara	2,000
Dundee	2,000
Elsinore	1,500
Foo-Chow	3,500
Funchal	1,500
Galatza	‡1,500
Gaspé Basin	‡1,500
Geneva	1,500
Genoa	1,500
Glasgow	3,000
Gottenburg	‡1,500
Halifax	2,000
Hamburg	2,000
Havre	6,000
Honolulu	4,000
Hong Kong	3,500
Jerusalem	1,500
Kanagawa	*3,000
Kingston	2,000
La Rochelle	1,500
Laguayra	1,500
Lahaina	3,000
La Paz	‡1,500
La Union	‡1,500

* Salary established under the act of February 28, 1861.
† Increased to $1,500 under the act of August 2, 1861.
‡ Compensation of $1,500 under the act of August 2, 1861.

Leeds	$2,000
Leghorn	1,500
Leipsic	1,500
Lisbon	‡1,500
Liverpool	7,500
London	7,500
Lyons	1,500
Macao	‡1,500
Malaga	1,500
Malta	‡1,500
Manchester	2,000
Manzanillo	‡1,500
Maracaibo	‡1,500
Matanzas	2,500
Marseilles	2,500
Mauritius	2,500
Melbourne	4,000
Messina	1,500
Moscow	2,000
Munich	1,000
Nagasaki	*3,000
Nantes	‡1,500
Naples	1,500
Napoleon Vendée	‡1,500
Nassau, W. I	2,000
Newcastle	‡1,500
Nice	‡1,500
Ningpo	3,000
Odessa	2,000
Oporto	1,500
Otranto	‡1,500
Palermo	1,500
Panama	3,500
Paramaribo	‡1,500
Paris	5,000
Pernambuco	2,000
Pictou	‡1,500
Ponce	1,500
Port Mahon	‡1,500
Prince Edward Island	‡1,000
Quebec	‡1,500
Revel	2,000
Rio de Janeiro	6,000
Rotterdam	2,000
St. Catharine	‡1,500
San Juan del Sur	$2,000
San Juan, Porto Rico	2,000
Santander	‡1,500
Santiago de Cuba	2,500
Santos	‡1,500
Scio	‡1,500
Shanghai	4,000
Singapore	2,500
Smyrna	2,000
Southampton	2,000
Stockholm	‡1,500
St. John, N. F	‡1,500
St. John, N. B	‡1,500
St. Petersburg	2,000
St. Pierre, Martinique	‡1,500
St. Thomas	4,000
Stutgard	1,000
Swatow	§3,500
Tabasco	†500
Tampico	†1,000
Tangier	3,000
Tehuantepec	‡1,500
Trieste	2,000
Trinidad de Cuba	2,500
Trinidad	‡1,500
Tripoli	3,000
Tunis	3,000
Turk's Islands	2,000
Valparaiso	3,000
Valencia	‡1,500
Venice	†750
Vera Cruz	3,500
Vienna	1,500

IV.—COMMERCIAL AGENCIES.

Schedule B.

Amoor River	†1,500
Antigua	‡1,500
Aux Cayes	†500
Belize, Honduras	1,500
Curaçoa	‡1,500
Gaboon	†1,000
Port au Prince	2,000
San Juan del Norte	2,000

* Salary established under the act of February 28, 1861.
† Increased to $1,500 under the act of August 2, 1861.
‡ Compensation of $1,500 under the act of August 2, 1861.
§ Compensation of $3,500 under the act of February 4, 1862.

St. Domingo	$1,500
St. Marc	‡1,500

V.—CONSULATES.

Schedule C.*

Apia	1,000
Athens	1,000
Bahia	1,000
Barbadoes	§1,000
Batavia	1,000
Bay of Islands	1,000
Candia	1,000
Capetown	1,000
Carthagena	500
Cobija	500
Cyprus	1,000
Falkland Islands	1,000
Fayal	750
Guayaquil	750
Lanthala	1,000
Maranham	1,000
Matamoras	1,000
Mexico	1,000
Montevideo	1,000
Omoa	1,000
Payta	500
Para	1,000
Paso del Norte	500
Rio Grande	1,000
Sabanilla	500
Santa Cruz, W. I	750
Santiago, Cape Verde	750
Spezzia	1,000
Stettin	1,000
Tabasco	500
Tahiti	1,000
Talcahuano	1,000
Tampico	1,000
Tumbez	500
Venice	750
Zanzibar	1,000

VI.—COMMERCIAL AGENCIES.

Schedule C.*

Amoor River	1,000
Aux Cayes	500
Cape Haytien	$1,000
Gaboon	1,000
Monrovia	1,000
St. Paul de Loando	1,000

VII.—CONSULATES

Not embraced in Schedule B or C.*

Alicante	Fees.
Altona	Fees.
Aguas Calientes	Fees.
Archangel	Fees.
Arica	Fees.
Asuncion	Fees.
Augsburg	Fees.
Bangkok	Fees.
Bathurst	Fees.
Bayonne	Fees.
Bissao	Fees.
Bogota	Fees.
Bombay	Fees.
Brunai	Fees.
Brunswick	Fees.
Campeachy	Fees.
Carlsruhe	Fees.
Carrara	Fees.
Cayenne	Fees.
Chihuahua	Fees.
Ciudad Bolivar	Fees.
Copenhagen	Fees.
Coquimbo	Fees.
Denia	Fees.
Dresden	Fees.
Dublin	Fees.
Falmouth	Fees.
Galway	Fees.
Ghent	Fees.
Guadaloupe	Fees.
Guatemala	Fees.
Guaymas	Fees.
Gibraltar	Fees.
Han Kow	Fees.
Hanover	Fees.
Helsingfors	Fees.
Hesse Cassel	Fees.
Hesse Darmstadt	Fees.

* Consular officers residing at all places, except those in schedule B, are permitted to transact business.

† Increased to $1,500 under the act of August 2, 1861.

‡ Compensation of $1,500 under act of August 2, 1861.

§ Compensation of $1,000 under act of August 2, 1861.

Hesse Hombourg	Fees.
Hobart Town	Fees.
Hilo	Fees.
Lambayeque	Fees.
Laguna	Fees.
Leith	Fees.
Liege	Fees.
Londonderry	Fees.
Lubec	Fees.
Manilla	Fees.
Mazatlan	Fees.
Merida and Sisal	Fees.
Minatitlan	Fees.
Monterey	Fees.
Mozambique	Fees.
Muscat	Fees.
Nassau, Europe	Fees.
Nuremburg	Fees.
Oldenburg	Fees.
Padang	Fees.
Plymouth	Fees.
Porsgrund	Fees.
Puerto Cabello	Fees.
Ravenna	Fees.
Riga	Fees.
Rio Hacha	Fees.
Rio Negro	Fees.
Rome	Fees.
San Louis Potosi	Fees.
Saltillo	Fees.
San Blas	Fees.
San José	Fees.
Santa Martha	Fees.
Schwerin	Fees.
Sedan	Fees.
Seville	Fees.
Sonneberg	Fees.
St. Helena	Fees.
St. Martin	Fees.
St. Thomé, Africa	Fees.
Sydney, N. S. W	Fees.
Teneriffe	Fees.
Trebisond	Fees.
Turbo	Fees.
Victoria, V. I	Fees.
Vigo	Fees.
Zacatecas	Fees.
Zante	Fees.
Zurich	Fees.

VIII.—COMMERCIAL AGENCIES

Not embraced in Schedule B or C.

Ceylon	Fees.
Comayagua and Tegucigalpa	Fees.
Hakodadi	Fees.
Medellin	Fees.
Punta Arenas	Fees.
Rosario	Fees.
St. Bartholomew	Fees.
St. Christopher	Fees.
St. Pierre, Miquelon	Fees.
Tetuan	Fees.

CONSULAR AGENCIES.[1]

Adelaide, Australia.
Adra, Spain.
Adrianople, Turkey.
Aguadilla, Porto Rico.
Akyab, Bengal.
Albany, Australia.
Aleppo, Syria.
Alexandretta, Syria.
Almeria, Spain.
Ancona, Italy.
Annapolis, Nova Scotia
Arecibo, Porto Rico.
Arichat, Nova Scotia.
Aveiro, Portugal.
Baracoa, Cuba.
Barmen, Prussia.
Barrington, Nova Scotia.
Basse Terre, Guadaloupe.
Bedeque, Prince Edward Island.
Belem, Portugal.
Belleville, Canada.
Birmingham, England.
Black River, Jamaica.
Bonaire, West Indies.
Bornholm, Denmark.
Boulogne, France.
Brake, Oldenburg.
Brava, Cape Verde.
Bremerhaven, Germany
Brest, France.

[1] Consular agents receive no salaries, but are compensated for their services by receiving the whole or a certain proportion of the consular fees. See Diplomatic and Consular Act, section 15.

Brixham, England.
Cacilhas, Portugal.
Cairo, Egypt.
Calais, France.
Calamar, New Granada
Caminha, Portugal.
Cardenas, Cuba.
Cascumpec, Prince Edward Island.
Catania, Sicily.
Ceara, Brazil.
Cesimbra, Portugal.
Cette, France.
Charente, France.
Cherbourg, France.
Chicoutimi, Canada.
Christiania, Norway.
Christiansand, Norway.
Cienfuegos, Cuba.
Civita Vecchia.
Clifton, Canada.
Coaticook, Canada.
Cobourg, Canada.
Cognac, France.
Cologne, Prussia.
Concelho da Boucas.
Copenhagen, Denmark.
Corfu, Ionian Isles.
Coquimbo, Chili.
Crefeld, Prussia.
Cronstadt, Russia.
Crookhaven, Ireland.
Dartmouth, England.
Dantzic, Prussia.
Dardanelles, Turkey.
Dieppe, France.
Digby, Nova Scotia.
Dundee, Canada.
Dundalk, Ireland.
Dunedin, New Zealand.
Dunnville, Canada.
Dunkirk, France.
East Harbor, Turk's Islands.
Espinho, Portugal.
Falmouth, Jamaica.
Fano, Denmark.
Faro, Portugal.
Figueira, Portugal.
Fiume, Austria.
Flores, Azores.
Fort Erie, Canada.
Foz do Douro, Portugal.
Fredericksbaven, Denmark.
Frederickstadt, Santa Cruz.
Freemantle, Australia.
Frondheim.
Gefle, Sweden.
Georgetown.
Ghent, Belgium.
Gibara, Cuba.
Girgenti, Sicily.
Gloucester, England.
Goderich, Canada.
Gonaives, Hayti.
Graciosa, Azores.
Grand Caymans, Jamaica.
Guayama, Porto Rico.
Guayanilla, Porto Rico.
Guernsey, Great Britain.
Guysborough, Nova Scotia.
Haifa.
Hamilton, Canada.
Hamilton, Bermuda.
Harbor Island, Bahamas.
Hemmingford, Canada.
Honfleur, France.
Hull, England.
Huntington, Canada.
Inagua, Bahamas.
Island of Jersey.
Isle d'Oleron, France.
Isle de Re, France.
Jacmel, Hayti.
Jeremie, Hayti.
Kingston, Canada.
Kingstown, Ireland.
Konigsberg, Prussia.
Kurrachee, Sinde.
Lacolle, Canada.
Lagos, Portugal.
Lanzarotte, Canary Islands.
Las Palmas, Canary Islands.
La Tremblade, France.
Leca, Portugal.
Licata, Sicily.
Limerick, Ireland.
Lingan, Nova Scotia.
Liverpool, Nova Scotia.
L'Orient, France.
Longueuil, Canada.
Maceo, Brazil.
Madras, Madras.
Manzanillo, Cuba.
Marsala, Sicily.
Mayaguez, Porto Rico.
Media.
Memel, Prussia.
Milford Haven, England.
Mier, Mexico.
Monganui, New Zealand.
Montego Bay, Jamaica.
Morlaix, France.
Morpeth, Canada.
Mossel Bay, Cape Colony.
Nagnabo, Porto Rico.
New Castle, New South Wales.
Newport, England.
Niagara Falls, Canada.
Nuevitas, Cuba.
Ovar, Portugal.
Palma, Canary Islands.
Paraiba.
Pau, France.
Patras, Greece.
Penang, Bengal.
Peso da Regra, Portugal.
Plaister Cove, Nova Scotia.
Porto Alegre, Brazil.
Porto D'Anzio, Italy.
Port Baltic, Prussia.
Port Bruce, Canada.

Port Burwell, Canada.
Port Colbourne, Canada.
Port Dover, Canada.
Port Elizabeth, Cape Colony.
Port Hope, Canada.
Port Natal, Africa.
Port Orotava, Teneriffe.
Port Rowan, Canada.
Port Sarnia, Canada.
Port Stanley, Canada.
Port St. Mary, Spain.
Porto Plata.
Port Victoria, Seychelles.
Prescott, Canada.
Prince of Wales Island.
Pugwash, Nova Scotia.
Queensland, Australia.
Ragged Islands.
Ramleh, Syria.
Reims, France.
Ringkjobing, Denmark.
Ritzebüttel and Cuxhaven, Denmark.
Rochefort, France.
Ronne, Denmark.
Rouen, France.
Royan, France.
Sable d'Olonnes, France
Sagua la Grande, Cuba.
Salt Cay, Turk's Islands.
San José do Norte, Brazil.
San Juan de los Remedios, Cuba.
Santa Cruz, Cuba.
Santa Martha, New Granada.
Savannah la Mar, Jamaica.
Scanderoon, Syria.
Scilly, England.
Scio, Greece.
Sedan, France.
Setubal, Portugal.
Sidon, Syria.
Sierra Leone, Africa.
Simonstown, Africa.
Sines, Portugal.
Souris, Nova Scotia.
St. Catharine, Canada.
St. John, Canada.
St. Joao da Foz, Portugal.
St. Lambert, Canada.
St. Malo, France.
St. Michael, Azores.
St. Nazaire, France.
St. Thomé, Africa.
St. Valery, France.
Stanstead, Canada.
Stavanger, Norway.
Sunderland, England.
Swansea, England.
Swinemünde, Prussia.
Sydney, Cape Breton.
Syra, Greece.
Syracuse, Sicily.
Tarragona, Spain.
Terceira, Azores.
Thisted, Denmark.
Toronto, Canada.
Toulon, France.
Trapani, Sicily.
Tripoli, Syria.
Truxillo.
Tyre, Syria.
Velez, Spain.
Viana, Portugal.
Villa do Conde, Portugal.
Villa Nova, Portugal.
Waterford, Ireland.
West Caicos, Turk's Islands.
Weymouth, England.
Wexford, Ireland.
Windsor, Canada.
Whampoa, China.
Worcester, England.
Wyborg, Finland.
Wyk on Föhr, Denmark
Yarmouth, Nova Scotia.
Zaza, Cuba.

INTERPRETERS TO CONSULATES.

Interpreters are employed at the following places:

Consulates.	Compensation.
Amoy	$1,000
Canton	1,500
Kanagawa	1,500
Shanghae	1,500

Marshals are employed at the following places:

Consulates.	Compensation.
Bangkok	$1,000 and fees.
Constantinople	Do.
Foo-Chow	Do.
Han Kow	Do.
Kanagawa	Do.
Shanghae	Do.
Swatow	Do.

CONSULAR FORMS.

In order to render uniform, as far as possible, the mode of transacting consular business, the following forms have been prepared for the purpose of exhibiting the character and kind of service consular officers may be called upon to perform. These forms, as will be perceived, are referred to in the Consular Regulations prescribed by the President for the government of consular officers, and are to be observed by them in the transaction of official business.

Some of these forms, which are of most frequent use, are supplied to consular officers by the Department of State. When printed by the consuls, care should be taken, in order to lessen the expense of postage, that it be done on thin paper, and on sheets not unnecessarily large. Sometimes, when the printed sheets are not filled by the return, they can be reduced in size, before transmission to the Department, for the same reason. All forms are to be signed by the consul.

Form No. 1.

Names of persons employed at the U. S. Consulate, at ———.

Name.	Place.	Of what country a citizen or subject.	Rank.	Date of nomination.	Date of approval.

Note.—This form should be sent to the Department always at the close of the year, in order that the printed list of consular officers may be corrected.

Form No. 2.

Bond to be given by consular officers mentioned in schedule B of the act of August 18, 1856.

Know all men by these presents, that we, —— —— and —— ——, are held and firmly bound to the United States of America in the sum of —— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this —— day of ——, 18—.

The condition of the above obligation is such, that if the above bounden —— ——, appointed —— of the United States at ——, shall truly and faithfully discharge the duties of his said office according to law, and shall truly and faithfully account for, pay over, and deliver up all fees, moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said —— ——, or to the hands of any person for his use as such ——, under any law now or hereafter enacted, and that he will truly and faithfully perform all other duties now or hereafter lawfully imposed upon him as such ——. And these presents are subject to this other and further condition, that he, the said —— ——, will not, while he holds the said office, be interested in or transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person to, from, or within the port, place, or limits of his ——, directly or indirectly. either in his own name, or in the name, or through the agency, of any other person; and in case he, the said —— ——, shall violate the provisions of this condition, that then the above named obligors shall be liable to said obligees, to a penalty for the breach of such condition in a sum equal to the amount of the annual compensation of said —— ——; which is hereby stipulated, agreed upon, and admitted by way of liquidated damages, but that this condition shall not impair or prevent the right of the United States to prosecute said —— —— for the recovery of said penalty against him, the said —— ——, individually, the same as if this bond had not been given; and if the said —— —— shall conform to all the above conditions, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered
in the presence of us—
——— ———,
——— ———.

The following instructions must be particularly observed and complied with:

1st. The Christian names must be written in the body of the bond in full, and so signed to the bond.
2d. A seal of wax or wafer to be attached to each signature.
3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.
4th. The United States attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.
5th. Bond to be dated, and signed by the consul and his sureties.
6th. The name of the State, county, and town in which the sureties reside should be stated in the certificate of the district attorney.

Form No. 3.

Bond to be given by consular officers mentioned in schedule C of the act of the 18th August, 1856.

Know all men by these presents, that we, —— —— and —— ——, are held and firmly bound to the United States of America in the sum of —— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this —— day of ——, 18—.

The condition of the above obligation is such, that if the above bounden —— ——, appointed —— of the United States at ——, shall truly and faithfully discharge the duties of his said office, according to law; and shall truly and faithfully account for, pay over, and deliver up all fees, moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said —— ——, or to the hands of any person for his use as such ———, under any law now or hereafter enacted, and that he will truly and faithfully perform all other duties now or hereafter lawfully imposed upon him as such ———, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered
in presence of—
——— ———,
——— ———.

The following instructions must be particularly observed and complied with:

1st. The Christian names must be written in the body of the bond in full, and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. The United States attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.

5th. Bond to be dated, and signed by the consul and his sureties.

6th. The name of the State, county, and town in which the sureties reside should be stated in the certificate of the district attorney.

Form No. 4.

Bond to be given by consuls and commercial agents not mentioned in schedules B and C of the act of the 18th August, 1856.

Know all men by these presents, that we, —— —— and —— ——, are held and firmly bound to the United States of America in the sum of —— thousand dollars, money of the said United States, to the payment whereof we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators.

Witness our hands and seals, this —— day of ——, 18—.

The condition of the above obligation is such, that if the above bounden —— ——, appointed —— of the United States at ——, shall truly and faithfully discharge the duties of his said office, according to law, and also shall truly and faithfully account for, pay over, and deliver up, all moneys, goods, effects, books, records, papers, and other property which shall come to the hands of the said —— ——, or to the hands of any person for his use as such ———, under any law now or hereafter enacted, and that he will faithfully perform all other duties now or hereafter lawfully imposed upon him as such ———, then this obligation to be void; otherwise, to remain in full force.

——— ———. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Signed, sealed, and delivered
in the presence of—
——— ———,
——— ———.

The following instructions must be particularly observed and complied with:

1st. The Christian names must be written in the body of the bond in full, and so signed to the bond.

2d. A seal of wax or wafer to be attached to each signature.

3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.

4th. The United States attorney of the district in which the sureties reside must certify that they are sufficient to pay the penalty of the bond, and are citizens of the United States.

5th. Bond to be dated, and signed by the consul and his sureties.

6th. The name of the State, county, and town in which the sureties reside should be stated in the certificate of the district attorney.

FORM No. 5.

Endorsement of a Despatch.

U. S. CONSULATE.

[Name of Consulate and date.]

[Name of Consul.]

No. —.

[Number of documents enclosed.]

Received ———.

[An abstract of the contents of the despatch is to be placed here in as few words as possible.]

FORM No. 6.

Endorsement of an Enclosure.

ENCLOSURE.

[Name of Consulate.]

With despatch No. —.

[Name or character of enclosure.]

No. —.

[Date.]

FORM No. 7.

Address of Envelopes.

CONSULATE OF THE U. S. OF AMERICA
at ———.

To the

Secretary of State,
Washington,
D. C.

———

The words "Commerce," "Accounts," should be written at the left hand lower corner, when the despatch relates exclusively to either of these subjects.

FORM No. 8.

RECORD OF TREASURY FEES.

Fees received at the United States Consulate at ———, *from* ——— *to the* ———, 18—.

Date.	No.	Name of vessel.	Name of the party paying the fee.	Nature of service rendered.	Amount of fees paid.		Remarks.

NOTE.—This form is to be followed by consular officers residing at seaports, and a transcript thereof transmitted to the Secretary of the Treasury, when the consular officer is entitled by law to a salary, otherwise to the Secretary of State, with quarterly returns of statement of fees, as per Form No. 44.

Form No. 9.

RECORD OF TREASURY FEES.

Fees received at the United States Consulate at ———, from ——— to the ———, 18—.

No.	Date.		Name of the firm or party for whom the service is rendered.	Signer of the oath, who must be one of the firm.	Nature of the service rendered.	Fees.	

Note.—This form is to be followed by consular officers residing at inland places, and a transcript thereof transmitted quarterly to the Secretary of the Treasury, if the consular officer is entitled to a salary, otherwise to the Secretary of State.

Form No. 10.

PASSPORT BOOK.

No.	Date.	Name.	Last residence.	Place of birth.	Profession.	Evidence upon which the passport is granted	Place for which a visa is given.	Description.	Signature of the person to whom the passport is granted.	Remarks.
								Age, Stature, Forehead, Eyes, Nose, Mouth, Chin, Hair, Complexion,		

Form No. 11.

Invoice Book.

Date of certificate.		Name of the vessel or party for whom service is rendered.	Where bound or whither sent.	Kind and character of the goods or merchandise.	Where produced.	Value, including costs and charges.	

Form No. 12.

Register of Official Letters received at the U. S. Consulate at ——.

Name of the writer.	No.	Place and date of letter.	When received.	On what subject.	Number of enclosures.	Amount of postage paid on each letter.	Remarks.

Form No. 13.

Register of Official Letters sent from the U. S. Consulate at ——.

Date.		No.	To whom and to what place sent.	On what subject.	Number of enclosures.	Amount of postage paid on each letter.

FORM No. 14.

Quarterly Return of the arrival and departure of American vessels at the United States Consulate at ———, from the ——— to the ———, inclusive.

No.	DATE.		VESSELS.										CARGOES.									
													INWARD.					OUTWARD.				
	Month.	Day.	Class.	Name.	Tonnage.	Where from.	When built.	Where built.	Where belonging.	Where bound.	Owners.	Masters.	Where produced.	Where manufactured.	Description.	Quantity.	Value.	Where produced.	Where manufactured.	Description.	Quantity.	Value.

FORM No. 15.

Detailed List of Seamen or Mariners shipped, discharged, or deceased, at the Consulate of the United States at ———, from ——— to ———, inclusive, and the payments made on account of each.

Date of discharge, shipment or decease.		Name of seaman or mariner discharged.	Name of seaman or mariner shipped.	Name of seaman or mariner deceased.	To what vessel belonging.	Amount of payments made.	

FORM No. 16.

Statement of cases of relief afforded to destitute American seamen at the Consulate of the United States at ———, from ——— to ———, inclusive.

No.	Name of seaman.	Ship.	Master.	Owner.	To what port belonging.	Date of discharge or receiving relief.	Cause of discharge.	Date of leaving the consulate or of decease.	Remarks.	Moneys and extra wages received.		Wages refunded to seamen.	Amount disbursed.					Total.	Amount expended for same during previous qua'rs.	Grand total.
										Moneys.	Extra wages.		Clothing.	Board and lodging.	Medical aid.	Burial expenses.	Miscella. expenses.			
1	C. D.	Union.	A. B.	G. H.	Salem	Oct. 1	Sickness.	Nov. 22	.....	$15 00	$45 00	.....	$5 00	$3 00	$18 00	$4 00	.....	$60 00	.....	$60 00
2	E. F.	Casual, this	not dis consul	charg ate.	ed in	Oct. 2	Wrecked.	Nov. 26	Belonged to ship ———, lost at sea; reached this port in an open boat.	.....	.....	.....	2 00	2 00	52 00	4 00	.....	60 00	.....	60 00
3	M. O.	Union.	.....	.....	.....	Nov. 1	Sickness.	Nov. 12	.....	.....	45 00	$18 00	.....	.....	12 00	.....	.....	12 00	.....	12 00
										$15 00	$90 00	$18 00	$7 00	$5 00	$112 00	$8 00	.....	$132 00	.....	$132 00

NOTE.—This form is to be observed by all consular officers, and sent quarterly to the Fifth Auditor of the Treasury, with the account current as per Form No. 17.

FORM No. 17.

ACCOUNT CURRENT.

DR. *The United States Government in account current with ———, U. S. consul at ———.* CR.

Date.	Clothing, boarding, etc., by whom supplied.	To whom furnished.	On what account.	Vouchers.	Amount.	Date.	Extra wages and moneys received.	On whose account.	Vessel.	Amount.
1856.						1856.				
Oct. 1	A. B.....	C. D.....	Clothing....	1	$5 00	Oct. 1	By 8 months' extra wages.....	C. D...	Union.	$45 00
2	Do.	E. F.....	Do.	2	2 00	2	" amount moneys received....	Do. ..	Do...	15 00
Nov. 1	G. H.....	C. D.....	Board and lodging...	3	3 00	Nov. 1	" 1 month's extra wages.....	M. O..	Do...	15 00
							" portion of 2 months' ditto...	Do. ..	Do...	12 00
8	Do.	E. F.....	Do.	4	2 00					
Dec. 31	I. J.....	C. D..... }	Burial expenses....							$87 00
	Do.	E. F..... }		5	8 00					
	K. L.....	Sundry persons.	Medical aid.	6	112 00		By amount of draft on the honorable ——— ———, Secretary of State, at fifteen days' sight, in favor of ——— ———, acceptance waived.....	.....	.....	45 00
					$182 00					$132 00

E. & O. E.

U. S. CONSULATE AT ———,

December 31, 1856.

A B, *Consul.*

FORM No. 18.

Marine Note of Protest.

CONSULATE OF THE UNITED STATES OF AMERICA,

Port of ———,

On this ——— day of ———, in the year of our Lord eighteen hundred and ———, before me, ——— ———, consul of the United States of America for ——— and the dependencies thereof, personally appeared ——— ———, master of the ship or vessel called the ———, of ———, of the burden of ——— tons or thereabouts, and declared that on the ——— day of ——— last past, he sailed in and with the said ship from the port of ———, laden with ———, and arrived in the said ship at ———, on [here insert the day and hour;] and having experienced boisterous and tempestuous weather on the voyage ———

hereby enters this Note of Protest accordingly, to serve and avail him hereafter if found necessary.

——— ———,
Master.

Attested:
A B, *Consul.*

Form No. 19.

SHIP ——.

Marine Extended Protest of —— ——, *master*, ———, 18—.

Consulate of the United States of America,

Port of ——,

By this public instrument of declaration and protest, be it known and made manifest unto all to whom these presents shall come or may concern, that on the —— day of ——, one thousand eight hundred and ——, before me, —— ——, consul of the United States of America for —— and the dependencies thereof, personally came and appeared —— ——, master of the ship or vessel called the ——, of ——, of the burden of —— tons or thereabouts, then lying in this port of ——, laden with —— cargo, who duly noted and entered with me the said consul his protest, for the uses and purposes hereafter mentioned; and now, on this day, to wit, the day of the date hereof, before me, the said consul, again comes the said —— ——, and requires me to extend this protest; and together with the said —— —— also come A B, mate, G H, carpenter, K L and M O, seamen, of and belonging to the said ship, all of whom being by me duly sworn on the Holy Evangelists of Almighty God, did severally voluntarily, freely, and solemnly declare, depose, and state as follows, that is to say: That these appearers, on the —— day of ——, in their capacities aforesaid, sailed in and with the said —— from the port of ——, laden with ——, and bound to the port of ——; that the said ship was then tight, staunch, and strong; had her cargo well and sufficiently stowed and secured; had her hatches well calked and covered; was well and sufficiently manned, victualled, and furnished with all things needful and necessary for a vessel in the merchant service, and particularly for the voyage she was about to undertake; that

[Here insert narrative of the facts of the voyage as they occurred, with full and minute particulars, with dates, latitude, longitude, etc.]

And these said appearers, upon their oaths aforesaid, do further declare and say: That during the said voyage they, together with the others of the said ship's company, used their utmost endeavors to preserve the said —— and cargo from all manner of loss, damage, or injury. Wherefore the said —— ——, master, hath protested, as by these presents I, the said consul, at his special instance and request, do publicly and solemnly protest, against all and every person and persons whom it doth or may concern, and against the winds, and waves, and billows of the seas, and against all and every accident, matter and thing, had and met with as aforesaid, whereby, and by reason whereof, the said —— or cargo already has, or hereafter shall appear to have suffered or sustained damage or injury. And do declare that all losses, damages, costs, charges, and expenses that have happened to the said —— or cargo, or to either, are, and ought to be borne by those to whom the same by right may appertain by way of average or otherwise, the same having occurred as before mentioned, and not by or through the insufficiency of the said ——, her tackle or apparel, or default or neglect of this appearer, his officers, or any of his mariners.

Thus done and protested in the port of ——, this —— day of ——, in the year of our Lord one thousand eight hundred and ——.

In testimony whereof these appearers have hereunto subscribed their names, and I, the said consul, have granted to the said master this public instrument, under my hand and the seal of this consulate, to serve and avail him and all others whom it doth or may concern, as need and occasion may require.

[Seal of the consul.]

—— ——, *U. S. Consul.*

Master.
A B, *Mate.*
G H, *Carpenter.*
K L, *Seaman.*
M O, do.

FORM No. 20.

SHIP'S DAILY JOURNAL.

In which, on the deposit of the ship's register and papers, shall be recorded, for example, as follows:

SHIP ———, OF ———, ——— TONS, —— ——, MASTER.

Date of entry and of service rendered.						
1856.						
Jan.	2	Arrived —— day of ——, 18—. From——. When built, ——, 18—. Where built, ——. Owners, —— —— and others. Cargo, inward, [here insert where produced or manufactured].....value	$.....	.....	.....	.....
		Cargo, outward, [here insert where produced or manufactured].....value	.....	.....	.....	.....
		A B, master. C D, mate. E F, 2d mate.				
"	8	G H, boatswain, alias I J, sent to hospital. K L, carpenter, discharged; wages paid, $50; 3 months' extra wages, at $20, $60.....	.....	.....	$110	00
"	2	M N, steward, reported to have been lost overboard at sea, (or to have died at sea,) Dec. 21, 1856, wages paid.....	.....	.....	16	00
"	8	O P, cook, reported to have deserted: amount of wages forfeited to the U. S..	.....	.....	50	00
		Q R, seaman. etc., etc.				
"	20	Shipped for voyage to——. —— ——, boatswain. —— ——, carpenter. —— ——, steward. —— ——, cook.				
"	21	Register and papers delivered to master, bound to ——.				

NOTE.—Should any of the seamen or mariners have died at sea, or have been lost overboard, on the passage, the fact will be reported at once by the master, and a note thereof made opposite to the name of such person so deceased or lost; as, for example, see Steward. Should any seaman or mariner be discharged, or desert, a similar note of the fact must be made opposite to such deserter's or discharged seaman's name; as, for example, see Carpenter and Cook. In case any seaman or mariner has taken the name of any other seaman or mariner, who may have deserted or otherwise absented himself, after the clearing of the vessel, in the United States or elsewhere, such seaman or mariner's correct and proper name must be entered opposite the name of the seaman or mariner so deserting or absenting himself; as, for example, see Boatswain. And in the event of the seaman or mariner's taking the name of another seaman or mariner as aforesaid, entering the hospital, being discharged, or deserting, the order to the hospital, certificate of discharge or desertion, and consular returns must contain the name of said seaman or mariner so taking the place of the absconding seaman; as, for example, see Boatswain.

Form No. 21.

Names of all deceased American citizens, including seamen or mariners, together with the value of the personal effects belonging to them, and taken possession of by or deposited with ——— ———, U. S. consul at ———, from ——— to ———, inclusive.

Date of decease.		Name of person.	Of what place a native or resident.	If a seaman, to what vessel belonging.	Where deceased.	Value of effects.	Disposition made thereof.

Form No. 22.

CERTIFICATE TO INVOICE.

Owner's or agent's oath, where goods, wares, or merchandise have been actually purchased.

I, —— ———, do solemnly and truly swear, (or affirm,) that the invoice annexed contains a true and faithful account of the actual cost of the goods, wares, or merchandise therein mentioned subject to *ad valorem* duty, and of all charges thereon, and of the actual quantity of the goods, wares, or merchandise therein mentioned subject to specific duty, and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same.

—— ——.

Sworn to (or affirmed) and subscribed before me, —— ——, at ——, the —— day of ——, A.D. 18—, and of the independence of the United States the ——: and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under the said oath (or affirmation) are true.

——— ———,

[L. S.] *U. S. Consul.*

Form No. 23.

CERTIFICATE TO INVOICE.

Owner's or agent's oath, in cases where goods, wares, or merchandise have been consigned or obtained in any manner other than by purchase.

I, —— ——, do solemnly and truly swear, (or affirm,) that the invoice now produced, and herewith annexed, contains a true and faithful account of the goods, wares, or merchandise therein mentioned subject to *ad valorem* duty, at their market value at —— at the time the same were procured, and of all charges thereon, and a true and faithful account of the actual quantity of the goods, wares, or merchandise therein mentioned subject to specific duty; and that the said invoice contains no discounts, bounties, or drawbacks but such as have been actually allowed.

——— ———.

Sworn to (or affirmed) and subscribed before me, —— ——, at ——, the —— day of ——, A.D. 18—, and of the independence of the United States of America the ——: and I further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under the said oath (or affirmation) are true.

——— ———,

[L. S.] *U. S. Consul.*

Form No. 24.

Consular certificate of the value of currency.

I, —— ——, consul of the United States of America, do hereby certify, that the true value of the currency of the —— of ——, in which currency the annexed invoice of merchandise is made out, is —— cents, estimated in American or Spanish silver dollars.

——— ———.

Form No. 25.

Bill for rent of consular office.

Department of State, United States,

To —— ——,

U. S. Consul at ——, Dr.

186–.	For rent of Consular Office in —— Street, No. ——, for quarter ending this day, as per voucher No. ——.	$	
	For loss by exchange on the above amount, at —— per cent., as per voucher No. ——.		
		$	
	Cr. By my Draft on the Secretary of State.	$	

——— ———,

U. S. Consul at ——.

Note.—Be careful to sign this account, and transmit it to the Department of State before sending the draft. Rent of consular office is allowed only to consuls classed in schedule B, who are not permitted to engage in business or trade, whenever the President shall think there is sufficient reason therefor.

Form No. 26.

Voucher for boarding and lodging.

Consulate of the United States at ——,

To —— ——, Dr.

18—.

For boarding and lodging —— ——, a destitute American seaman, from —— day of ——, to ——, at —— per day [or week] . . . . $

The above bill is correct.

———— ————, *Seaman*, (*or Mariner.*)

Received ——, 18—, from —— ——, U. S. consul, the sum of —— dollars, in full of the above bill.

———— ————.

Form No. 27.

Voucher for hospital expenses and medical aid.

Consulate of the United States of America at ——,

To —— ——, Dr.

For medical aid and attendance supplied the following named destitute American seamen admitted in and discharged from [here insert the name of the hospital] by order of —— ——, consul at ——, for the quarter ending ——, 18—.

When admitted. 1856.		Name of seamen.	Date of discharge or decease.		Number of days attended, say at $1 per day.	Amount.	
October	6	C. D.	November.	22	48	$48	00
"	"	F. F.	"	26	52	52	00
November..	1	M. O.	"	12	12	12	00
						$112	00

——, 18—. Received of —— ——, U. S. consul, the sum of —— dollars and —— cents, in full of the above bill.

—— ——.

Form No. 28.

Voucher for Clothing.

Consulate of the United States of America at——,

To —— ——, Dr.

18—. For clothing furnished to —— ——, a destitute American seaman, viz.:
(Here name all articles of clothing furnished, including cost thereof) . . . . . $

$

Delivered in presence of— Correct:

—— ——. —— ——,

—— ——. *Seaman.*

—— ——, ——, 18—. Received of —— ——, U. S. consul, the sum of —— dollars and —— cents, in full of the above bill.

—— ——.

Form No. 29.

Receipt for two-thirds extra wages.

Consulate of the United States of America at ——,

——, 18—.

Received of —— ——, United States consul at ——, the sum of —— dollars, being the amount (or residue, as the case may be) of the two months' extra wages to which I am entitled under the acts of the 28th February, 1803, and of August 18, 1856, on my discharge from the —— of ——, —— ——, master.

—— ——.

Form No. 30.

Consul's certificate given to masters when required to take to the United States destitute American seamen.

Consulate of the United States of America,

——, 18—.

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that I have sent to —— by the ——, whereof —— —— is master, A B, C D, and E F, three destitute American seamen, and have agreed with the said master that on presentation of this certificate at the Treasury Department, bearing an endorsement of the collector of customs at the port of ——, aforesaid, that the seamen herein mentioned have arrived in said vessel within his district, he shall and will be entitled to receive the sum of thirty dollars for their passage, being the sum of ten dollars for each seaman, in conformity to the laws of the United States made and provided for the relief of destitute American seamen.

Given, etc.

—— ——,

U. S. Consul.

Form No. 31.

Consul's certificate, given to masters when required to take to the United States more than two seamen for one hundred tons burden of a vessel.

Consulate of the United States of America,

——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that I have sent to ——, by the ——, whereof —— —— is master, G H and I J, two destitute American seamen over and above the number said vessel is by law required to take, and have agreed with the said master that on presentation of this certificate at the Treasury Department, bearing the endorsement of the collector of customs at the port of ——, aforesaid, that the seamen herein mentioned have arrived in said vessel within his district, that he shall and will be entitled to receive the sum of —— dollars for their passage, being the sum of —— dollars for each seaman, there being no other American vessel now in port bound for the United States in which to send home said seamen, in conformity to the provisions of the laws of the said States, made and provided for the relief of destitute American seamen.

Given, etc.

—— ——,

U. S. Consul.

Form No. 32.

Affidavit or certificate of attending physician.

—— ——, 18—.

I hereby swear (or certify, as the case may be) that A B, C D, and E F, sick American seamen, were attended by me during the quarter ending the —— day of ——, 18—, and that the health of the said named persons was such during that time that it would have endangered their lives to have sent them on the homeward voyage.

—— ——, M.D.

Form No. 33.

FOR STATING AN ACCOUNT UNDER THE ACT OF AUGUST 18, 1856, FOR SALARY AND FEES, EXCLUSIVE OF SEAMEN'S WAGES OR EXPENDITURES FOR THEM.

The United States Government in account for fees with —— ——, *(Consul General, Consul, or Commercial Agent,) at* ——, *under the act of August* 18, 1856.

Dr.				Cr.			
1856.				1856.			
Dec. 31	To amount of my salary (as consul general, consul, or commercial agent,) from October 1 to December 31, 1856, at $7500 per annum.	.....	$1875 00	Dec. 31	By amount of money received from sundry persons, during said period, and applied toward my salary, as per return of fees herewith, viz.:		
					For discharging and shipping seamen.....	$100 50	
					" tonnage fees.....	150 00	
					" noting and extending marine protests	50 25	
					" issuing warrants of survey.....	25 00	
					" authenticating copies of documents..	120 00	
					" do. signatures.....	80 00	
					" certificates.....	250 00	
					" recording and filing documents.....	25 00	
					" miscellaneous fees, consisting of letters, seal and signature, orders, acknowledgments, declarations, oaths, etc.....	300 75	
							$1102 00
					By amount of my draft on the Honorable—— ——, Secretary of State, at fifteen days' sight, acceptance waived.....	.....	773 00
			$1875 00				$1875 00

U. S. Consulate at ——,
December 31, 1856.

—— ——, *Consul.*

FORM No. 34.

Oath of consul to accompany transcript of register of fees, Form No. 8.

——— ———.

On the —— day of ——, before me, the undersigned, personally appeared —— ——, U. S. consul at ——, and made oath that the above and foregoing account, or report of fees, is a full and perfect transcript of the register which he is by law required to keep; that the same is true and correct, and contains a full and accurate statement of all fees received by him as such consular officer, or for his use, for his *official services*, to the best of his knowledge, during the period of time therein mentioned.

——— ———, *U. S. Consul.*

Sworn to before me,

——— ———.

FORM No. 35.

Certificate to be executed and to accompany each quarterly account, Form No. 33.

CONSULATE OF THE UNITED STATES AT ——,

———, 18—.

I certify that I have not been absent from the district of my consulate (or commercial agency, as the case may be,) for a longer period than ten days within the quarter embraced in the above and foregoing account.

——— ———.

NOTE.—If absent for more than ten days at any one time, the consular officer should state the day his absence commenced and the day it ceased.

FORM No. 36.

Certificate to be executed by each consular officer, and to accompany his first account.

CONSULATE OF THE UNITED STATES AT ——,

———, 18—.

I, —— ——, (consul or commercial agent, as the case may be,) do certify that I entered upon the duties of this office on the —— day of ——, 18—, and that I have since then continued in charge of the said office uninterruptedly to the present time.

——— ———,

U. S. Consul.

FORM No. 37.

Certificate to be used in prosecutions.

UNITED STATES CONSULATE,

———, 18—.

SIR: A penalty is supposed to have been incurred by [*James Johnson,*] of [*New Orleans, commander of the brig Jackson, of that place,*] for a violation of the —— section of the act of ——, (— U. S. Statutes at Large, p. —,) for [*refusing to deposit the papers of the said brig with such consul,*] and for which he is liable to be prosecuted in my name, as consul of the United States for this port.

You, or the proper law officer of the United States, are authorized, at their proper costs and charges, to institute in my name a suit to recover the same for their use and benefit, and the same to control, and to discharge, according to law, in such court having jurisdiction thereof, as you or he shall deem proper.

Witness my hand and consular seal.

——— ———,

[L. S.] *U. S. Consul.*

Hon. ——— ———,

Secretary of State.

FORM NO. 38.

Certificate given to master on deposit of a ship's register or papers.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that —— ——, master of the ——, has duly deposited in this consulate the register of the said ——, together with the crew list and shipping articles.

Given under my hand and the seal of this consulate, the day and year above written.

[L. S.] ——— ———,
U. S. Consul.

FORM NO. 39.

Certificate given to master on delivery of a ship's register and other papers.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that —— ——, master of the ship or vessel called the ——, of ——, having this day exhibited to me the clearance of said vessel from the proper authorities of this port, I have delivered to him, the said master, the register and papers of the said vessel, duly deposited in this consulate on the —— day of ——, 18—.

Given under my hand and the seal of this consulate, the day and year above written.

[L. S.] ——— ———,
U. S. Consul.

Form No. 40.

RETURN OF EXTRA WAGES.

——— ———, *U. S. consul at* ———, *in account with the U. S. Government, for amount of the one month's*
Dr. *extra wages received on account of discharged seamen, from* ——— *to* ———, 18—. Cr.

Date.	Name of seaman or mariner.	Vessel.	Amount extra wages received.		Date.	Disposition made of extra wages received.	Amount.	
1856.					1856.			
October 1	A. B.	Union.....	$15	00	December 31	By amount credited in account		
4	C. D.	Do.	15	00		for the relief of destitute		
December 31	E. F.	Boxer.....	20	00		American seamen, for quar-		
						ter ending December 31,		
						1856.....	$30	00
						By balance in my hands.....	20	00
			$50	00			$50	00

U. S. Consulate at ———,
December 31, 1856.

——— ———, *Consul.*

FORM No. 41.

Certificate of discharge of one or more seamen, to be attached to crew list and shipping articles.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

" ——, 18—.

I, the undersigned consul, etc. etc., do hereby certify, that the *undernamed* seamen or mariners have been duly discharged at this port from the —— of ——, according to law; —— ——, the master of the said ——, having deposited in this consulate the extra wages as hereinafter set opposite to their names, respectively, viz.:

Date of discharge.	Name of seaman or mariner.	Number of months' extra wages.	Amount.

Given, etc. ——— ———.

FORM No. 42.

Declaration and oath of master to not being able to procure two-thirds of a crew of protected American seamen.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned consul, etc. etc., do hereby certify, that on the day of the date hereof, before me personally appeared —— ——, master of the ——, and made oath, in due form of law, that he has been unable to obtain at this port two-thirds of a crew of protected American seamen to perform the voyage in said ship hence to ——.

Given, etc. etc.

[L. S.] —— ——,

Consul.

—— ——, *Master.*

Form No. 43.

Certificate of oath and declaration of master to desertion of seamen or mariners.

Consulate of the United States of America at ——,

——, 18—.

I, the undersigned consul, etc. etc., do hereby certify, that, on the day of the date hereof, before me, personally appeared —— ——, master of the ship ——, of ——, and made oath, in due form of law, that the seamen or mariners hereinafter named, and who are noted on the crew list of the said vessel as deserters, absconded from the said ship ——, at the ports or places hereinafter named, without his knowledge or consent, at or about the times hereinafter placed opposite their names respectively.

And the said —— ——, master, further declared that the said seamen or mariners, deserters as aforesaid, were duly shipped at the time and place and for the monthly wages and advance hereinafter stated, and as per contract of shipping articles; that the wages advanced abroad, expenses incurred on account of desertion, goods supplied to said seamen or mariners, as hereinafter stated opposite to their names respectively, were honestly, justly, and truly advanced, expended, incurred, and supplied, as stated, to and for account of said seamen or mariners; and he doth likewise declare, that the balance of wages due on account of said seamen or mariners, deserters as aforesaid, placed hereinafter opposite their respective names, as aforesaid, is the true, correct, and just balance which the said seamen or mariners would have been entitled to had they been duly discharged and paid off, for the period of time mentioned, and for which he has to account to the collector of customs of the port where the crew of said vessel are accounted for, as forfeited wages, to become the property of the United States.

And I, the said consul, for myself, do hereby certify that —— ——, master aforesaid, exercised due diligence, with my co-operation and assistance, to recover and secure such of said seamen or mariners as deserted at this port, but without success.

Names of deserters.	Date of shipment.	Place of shipment.	Monthly wages.	Place and time of desertion.			Time of service on board.		Wages due to day of desertion.		Advance wages.		Wages or moneys advanced abroad.		Expenses incurred on account of desertion.		Goods supplied.		Amount of wages forfeited to become the property of the U. S.	
				Port or place.	Month.	Day.	Month.	Day.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.	Dolls.	Cts.

Given, etc. etc.

——— ———, *U. S. Consul.*

Form No. 44.

Quarterly statement of fees received at the United States Consulate at ——, from the —— to the ——, inclusive.

18—	Date of arrival.		Name of vessel.	Burden.	Crews.								Tonnage fees.		Noting marine protest.	Extending marine protest.		Issuing warrant of survey on vessels, hatches, cargo, and stores, or either.		Authenticating copies of—							
					Inward.		Outward.		Discharged.		Shipped.									Note of marine protests.		Extended marine protest.		Call, warrant, and report of survey on vessel, hatches, cargo, and stores, or either.		Letters, inventories, advertisements, accounts of sales of vessel, cargo, stores, or other documents.	
No.	Mo.	Day.		Tons	No. Ams.	No. Fors.	No. Ams.	No. Fors.	No.	Amt.	No.	Amt.	Dols.	Cts.	Dols.	Dols.	Cts.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.

Form No. 44—Continued.

Authenticating signatures.				Certificates.																								
Report of survey on vessels, hatches, cargo, stores, or either.		Estimate of repairs of vessel; account sales of vessel, cargo, and stores, or either, or other documents.		To crew list and shipping articles; of desertions, deaths, and of protected American seamen.		Debenture; invoice; currency; ownership; advertisements on bottomry; sale of vessel, cargo, etc.		Deviation from voyage; cancelling ship's register; appointing new master; sea letter; consul's decision and award on conduct of crew, etc.		Recording documents in consular records.		Filing documents in consulate.		Letters to authorities; seal and signature of consul to clearance and papers, roll, bill of health, etc.		Orders to send, and release men from prison.		Acknowledgments of masters or merchants to bottomry bonds, bills of sale, and other instruments of writing.		Declarations and oaths of masters to ship's bills, inventories, etc.		Total of fees received on account of this vessel.		Date of clearance.		Remarks
No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	Dols.	Cts.	Mo.	Day.	

Note.—The above Form is intended to embrace *only* the fees received on account of vessels for *official services*, and no fee is to be included therein not chargeable to, or paid on account of, the vessel for such official services, except *debenture, invoice*, and *currency* certificates, which, although generally paid by the merchant and not chargeable to the vessel, will be included when they refer to the goods discharged from, or shipped by, the vessel named in the return. The fees called for under different heads *must be* added up in their columns respectively; the additions of the several columns will show the aggregate amount of fees received under the head of "Total of fees received on account of this vessel."

Vessels remaining in port at the end of the quarter, and over to the succeeding quarter, must be noticed in the returns under the head "*date of clearance*," as "in port." These vessels so remaining over will head the list in the next returns *without being numbered*.

Form No. 45.

Extract from transcript of fee book of those fees not enumerated and contained in return of fees prescribed in Form No. 44, received at the consulate of the United States at ——, from —— to ——, inclusive.

No.	Date.		Name of vessel.	Name of party paying the fee.	Nature of the service rendered.	Amount.	
20							
31							
50							
60							

U. S. Consulate at ——,
December 31, 18—.

Note.—The number inserted in the above Form must correspond with the number of the fee in the transcript of fee book.

Form No. 46.

CONSULAR PASSPORT.

Consulate of the United States of America,

To all to whom these presents shall come, greeting:

Age, years.
Stature,
Forehead,
Eyes,
Nose,
Mouth,
Chin,
Hair,
Complexion,
Face,

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, hereby request all whom it may concern, to permit safely and freely to pass, —— ——, a citizen of the United States, and in case of need to give him all lawful aid and protection.

Given under my hand and the seal of the consulate, at ——, this —— day of ——, A.D. 18—, and in the year of the independence of the United States ——.

[SEAL.]

—— ——.

Form No. 47.

Abstract of the names and description of persons to whom Passports have been issued at the Consulate of the United States at ———, from ——— to ———, inclusive.

No.	When issued.	To whom issued.	DESCRIPTION.											Remarks.
			Age.	Stature.	Forehead.	Eyes.	Nose.	Mouth.	Chin.	Hair.	Complexion.	Face.	Evidence of citizenship.	

Note.—This return to be made every six months to the Department of State.

If the individual is a native citizen of the United States, the abstract should give his place of birth; if naturalized, the date of naturalization, the place where, and the name of the court by which a certificate of naturalization was granted, should be stated.

When husband, wife, and minor children expect to travel together, a single passport for the whole will suffice. For any other person in the party a separate passport will be required.

Form No. 48.

Consul's certificate, relating to seamen, given to masters at their own request.

Consulate of the United States of America at ——,

——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify, that —— ——, who has been duly shipped before me in the ——, of ——, —— —— master, was sent to the hospital at this port by me upon his own application, and, after being examined by the attending physician of the said hospital, was pronounced a fit subject and duly admitted to be cured of the —— disease. That, contrary to the advice and opinion of the said attending physician, the said —— —— left the hospital a few days thereafter, insisting that he was well and able to do seaman's duty and return home. That, in consequence of his ill health and liability to go upon the sick list at sea, several masters of American vessels refused to ship him before he entered on board of the —— as aforesaid; and this certificate is granted to Captain —— ——, at his own request, to protect him hereafter should the said —— ——, in consequence of the disease aforesaid, be unable to perform the duty required of him as a seaman on the voyage from this port to ——.

Given, etc. etc.

—— ——, *U. S. Consul.*

FORM No. 49.

Consul's decision and award in cases of protest against masters, passengers, or crew.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——.

Whereas —— ——, master of the ——, of ——, recently arrived in this port of ——, from ——, has entered formal protest on the books in this consulate, under date of the —— ——, 18—, against

_____

_____

passengers in the said —— on the passage aforesaid, named in the said protest, for mutinous conduct on the high seas, and against carrying them to ——. And whereas the officers, crew, and part of the passengers of said vessel have likewise entered solemn protest, under date of —— ——, against the said named persons, and against their proceeding with them in the said vessel:

Now, therefore, I, the undersigned consul of the United States of America, having entertained the complaint and grievances set forth in the said protest, having first required and obtained from the said master a specified list of the charges preferred by him against the said —— passengers, consisting of —— distinct charges, and having duly sworn and respectively examined the witnesses to same, in number —— persons, who deposed to the truth of the said charges as follows, to wit: —— to the first accusation; —— to the second; —— to the third; —— to the fourth; —— to the fifth; —— to the sixth. And having furthermore admitted and duly sworn and respectively examined —— persons —— on the part of said —— accused, and having duly and impartially weighed the testimony adduced on both sides, do hereby adjudge and declare as follows, that is to say:

[Here state the decision and award of the consul.]

Given at this consulate, this —— day of ——, in the year of our [SEAL.] Lord one thousand eight hundred and fifty——.

—— ——, *U. S. Consul.*

Form No. 50.

Certificate authenticating copies of call, warrant, and report of survey.

Consulate of the United States of America at ——,

——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify, that the foregoing call, warrant, and report of survey, and the certificate thereto signed —— ——, U. S. consul, numbered 1, 2, 3, 4, hereto annexed, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by me and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, etc.

—— ——, *U. S. Consul.*

Form No. 51.

Letter to authorities in cases of sinking vessels.

Consulate of the United States of America at ——,

——, 18—.

Sir: The surveyors of the ship ——, of ——, —— —— master, having recommended that the ship should be towed or hauled into shoal water for the safety of the vessel and cargo, as the water is gaining rapidly on the pumps, I have the honor to request that you will please have designated to the master of the ——, such moorings, in shoal water, in the harbor of ——, that, in the event of the sinking of the ship, the mooring grounds in the bay will not sustain injury.

I have the honor to be, very respectfully, etc.,

—— ——, *U. S. Consul.*

To —— ——,

Captain of the port, (or other authority.)

Form No. 52.*

Foreign owner's oath, where goods have been actually purchased, to be taken before a consular officer of the United States in the British Provinces.

I, —— ——, do solemnly and truly swear, that the goods, wares, or merchandise described in the invoice now produced and hereunto annexed, were actually purchased for my account, or for account of myself and partners in the said purchase; and that said invoice contains a true and faithful account of the actual cost thereof, and of all charges thereon; and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same; and that said goods are the growth or product of the province of ——.

—— ——.

Sworn to and subscribed before me, at ——, the —— day of ——, A.D. 18—, and of the independence of the United States of America the ——; and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

[L. S.] —— ——,

U. S. Consul.

Form No. 53.

Foreign owner's oath, in cases where goods have not been actually purchased, to be taken before a consular officer of the United States in the British Provinces.

I, —— ——, of ——, do solemnly and truly swear, that the invoice now produced, and hereunto annexed, contains a true and faithful account of the goods therein described, at their market value at —— at the time the same were [procured or manufactured, as the case may be,] and of all the charges thereon; and that said invoice contains no discounts, bounties, or drawbacks but such as have been actually allowed; and that the said goods are the growth or product of the province of ——.

—— ——.

Sworn to and subscribed before me, at ——, the —— day of ——, A.D. 18—, and of the independence of the United States of America the ——; and I do further certify, that I am satisfied that —— ——, who subscribes the foregoing oath is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

[L. S.] —— ——,

U. S. Consul.

* See Circular No. 17, and acts of Congress, chapters 163 and 169, sections 17 and 3 respectively.

Form No. 54.

Foreign owner's oath, where goods have been actually purchased, to be taken before two respectable merchants, where there is no consular officer of the United States in the British Provinces.

I, —— ——, do solemnly and truly swear, that the goods described in the invoice now produced and hereunto annexed, were actually purchased for my account, or for account of myself and partners in the said purchase; and that the said invoice contains a true and faithful account of the actual cost thereof, and of all charges thereon; and that no discounts, bounties, or drawbacks are contained in the said invoice but such as have been actually allowed on the same; and that said goods are the growth or product of the province of ——.

——— ———

Sworn to and subscribed before us, residents at ——, in the province of ——, the —— day of ——, A.D. 18—; and we further certify, that we are satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

——— ———.

——— ———.

Form No. 55.*

Foreign owner's oath, in cases where goods have not been actually purchased, to be taken before two respectable merchants, where there is neither a consul, vice consul, nor commercial agent of the United States in the British Provinces.

I, —— ——, of ——, do solemnly and truly swear, that the invoice now produced, and hereunto annexed, contains a true and faithful account of the goods therein described, at their market value at —— at the time the same were (procured or manufactured, as the case may be,) and of all the charges thereon; and that the said invoice contains no discounts, bounties, or drawbacks but such as have been actually allowed; and that the said goods are the growth or product of the province of ——.

——— ———.

Sworn to and subscribed before us, residents at ——, in the province of ——, the —— day of ——, A.D. 18—; and we further certify, that we are satisfied that —— ——, who subscribes the foregoing oath, is the person he represents himself to be; that he is a credible person; and that the statements made by him under said oath (or affirmation, as the case may be) are true.

——— ———.

——— ———.

* This Form and also the three preceding are rendered unnecessary by recent legislation.

Form No. 56.

Form of certificate to be issued to American owners of foreign-built vessels.

I, ——— ———, consul of the United States for the port of ———, do hereby certify, that the within bill of sale, bearing date the ——— day of ———, of the ——— [here describe the vessel, her tonnage, denomination, name, etc.,] sold and transferred by ——— ———, to ——— ———, is, in form and substance, valid and effective in law, and has been duly recorded in my office; and that the said ——— ——— [naming the owners] are citizens of the United States.

As witness my hand and seal of the consulate, this ——— day of ——— in the year of our Lord 18—.

[L. S.] ——— ———,

Consul.

Form No. 57.

Mode of calculating consular salaries.

Consular salaries must be calculated by the quarter, and for both days inclusive. The same mode of calculation must be observed with regard to fractions of quarters. The following calculations are given as examples, viz.:

EXAMPLE No. 1.

For amount of my salary as consul at ——, from 1st January to 31st March, 1856, inclusive, being one quarter, at the rate of $3500 per annum..... $875 00

EXAMPLE No. 2.

FRACTION OF A QUARTER.

* * * * * from 1st April to 20th June, 1856, inclusive, being 81 days of the quarter ending 30th June, 1856, at the rate of $3500 per annum..... $778 84

To be calculated as follows, viz.:

April, 30 days,				April, 30 days,	
May, 31, "				May, 31 "	
June, 30 "				June, 20 "	
91 "	:	$875.00	: :	81	

```
                  81
                ------
                87500
               7000
               ----
91 ) 7087500 ( 778.84
     637
     ---
      717
      637
      ---
       805
       728
       ---
        770
        728
        ---
         420
         364
         ---
          56
          --
          91
```

EXAMPLE No. 3.

For fraction of quarter ending 30th September, at $3500 per annum:

July,	31 days,			July,	31 days,
August,	31 "			August,	31 "
September,	30 "			September,	20 "
	92 "	:	$875.00	: :	82

EXAMPLE No. 4.

* * * * * from 1st July to 20th December, 1856, inclusive, 5 months, 20 days, at the rate of $3500 per annum..... $1645 38

Thus stated—

Quarter ending 30th September, 1856..... $875 00

Fraction quarter ending 31st December, 1856..... 770 38

October,	31 days,			October,	31 days,
November,	30 "			November,	30 "
December,	31 "			December,	20 "
	92 "	:	$875.00	: :	81

FORM No. 58.

Of account of expenses incurred at the consulate of the United States at ———.

The Department of State of the United States to ——— ———,
U. S. consul at ———, DR.

	Voucher. No.	$	
For stationery, viz.:			
For —— reams ruled foolscap paper for official correspondence.....			
For —— reams letter paper for official correspondence.....			
For —— reams folio post paper, for returns.....			
For —— blanks for returns, etc., prescribed by the Department of State.			
For —— sealing wax.....			
For —— wafers.....			
For —— quills, pens, and ink.....			
For —— envelopes.....			
For —— record books.....			
* { For a seal of the U. S. Consulate. For a seal press..... For a flag of the United States.. For the arms of the United States.			
For a flag-staff and fixtures.....			
For postages on official correspondence, from —— to ——, inclusive.			
For freight and charges on boxes and packages from the Department of State.....			
For loss by exchange on the amount of this account, say $ at per cent., as per voucher.....			
Cr. By my draft on the Secretary of State.....			
U. S. Consul at ———.			

* NOTE.—These are to be purchased only when not supplied by the Department, and in cases where there is not time to make application to it for them.

For any other expenditures, authorized by the Department, separate accounts are to be rendered. Accounts to be endorsed with the name of the consul and the consulate, consular expenses, and the dates of commencement and termination.

FORM No. 59.

Call of survey on a vessel.

No. 1. ——, ——, 18—.

——— ———, Esq.,

United States consul at ——.

SIR: The ship ——, under my command, arrived at this port the —— instant from ——, laden with ——, in a damaged and leaky condition, and I have, therefore, to request that you will please call a survey upon the said ship, in order to ascertain her present state and condition, and what had best be done for the interest of the parties concerned.

Very respectfully, etc.,

——— ———,

Master.

FORM No. 60.

Warrant to survey a vessel.

No. 2.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

———, 18—.

Messrs.

A B, Master of the ship ——, of ——.

C D, Master of the ship ——, of ——.

E F, Master ship-carpenter at ——.

GENTLEMEN: Application having been made to this consulate by —— ——, master of the ship ——, of ——, of the burden of —— tons, or thereabouts, for a survey upon the said ship, in consequence of having sustained damages and injuries in the prosecution of her voyage from —— to this port, laden with ——, whereby she became ——, you are hereby respectfully requested to repair alongside and on board the said ship, and, after a careful and minute examination and survey of every visible part of her hull, spars, sails, and rigging, report to this consulate, under your own hands, in writing, her present state and condition, and what, in your opinion, had best be done for the interest of the parties concerned.

{Seal of the consulate.} Given under my hand and the seal of this consulate, the day and year above written.

——— ———,

U. S. Consul.

FORM No. 61.

Report of survey on a vessel.

No. 3.

Pursuant to the accompanying warrant of survey to us directed by —— ——, U. S. consul at ——, we, the undersigned, repaired alongside and on board of the ship ——, of ——, of the burden of —— tons, or thereabouts, recently arrived in this port from ——, in a damaged and leaky condition, laden with ——, and after a careful and minute examination of every visible part of her hull, spars, sails, and rigging, do report as follows, viz.:

We therefore recommend, in order to a further examination, and to ascertain, if possible, the cause and extent of the leak or leaks, that the cargo be discharged forthwith.

In confirmation of which we are willing, if required, to attest.

Given under our hands at ——, this —— day of ——, A.D. 18—.

——— ———,
Master of the ship ——, *of* ——.

——— ———,
Master of the ship ——, *of* ——.

——— ———,
Master ship-carpenter at ——.

Received —— dollars for holding the above survey.

——— ———.
——— ———.
——— ———.

FORM No. 62.

Consul's certificate authenticating signatures of surveyors.

No. 4.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the foregoing are the true and genuine signatures of —— ——, —— ——, and —— ——, surveyors, appointed by me, of the ship ——, of ——, and as such are entitled to full faith and credit.

Given, etc. etc.

——— ———.

FORM No. 63.

Second call of survey on a vessel.

No. 1. ———, 18—.

——— ———, Esq.,

United States consul at ——.

SIR: The cargo of the ship ——, of ——, under my command, being now discharged, I have therefore respectfully to request that you will please call a second survey on the said ship, in order to a further examination, and to ascertain, if possible, the cause and extent of the leak or leaks.

Very respectfully, etc.,

——— ———,

Master.

FORM No. 64.

Second warrant to survey a vessel.

No. 2.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

———, 18—.

Messrs.

A B, Master of the ship —— of ——.

C D, Master of the ship —— of ——.

E F, Master ship-carpenter at ——.

GENTLEMEN: Application having been made to this consulate by —— ——, master of the ship ——, of ——, of the burden of —— tons, or thereabouts, for a second survey on the said ship, her cargo having been discharged, you are hereby respectfully requested to repair on board of the said ship, and, after a further careful examination and survey of her hull, ascertain, if possible, the cause and extent of the leak or leaks, and report the same to this consulate under your own hands, in writing; also what, in your opinion, should be done for the interest of the parties concerned.

Given, etc.

(Seal of the consulate.)

——— ———,

U. S. Consul.

FORM No. 65.

Second report of survey on a vessel.

No. 3.

Pursuant to the accompanying warrant of survey to us directed by —— ——, U. S. consul at ——, we, the undersigned, repaired on board of the ship ——, of ——, of the burden of —— tons, or thereabouts, and after a further careful examination and survey of the hull of said ship, do report as follows, viz.:

In confirmation of which we are willing, if required, to attest.
Given under our hands at ——, this —— day of ——, A.D. 18.—

—— ——,
Master of the ——, of ——.

—— ——,
Master of the ——, of ——.

—— ——,
Master ship-carpenter at ——.

Received —— dollars each for holding the survey.

—— ——.
—— ——.
—— ——.

FORM No. 66.

Consul's certificate authenticating signatures of second surveyors.

No. 4.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the foregoing are the true and genuine signatures of —— ——, —— ——, and —— ——, the persons appointed by me on the second survey of the ship ——, and as such are entitled to full faith and credit.

Given, etc.

(Seal of the consulate.)

—— ——,
U. S. Consul.

Form No. 67.

Estimate of repairs.

Estimate of the probable cost of repairing the ——, of ——, agreeably to the recommendations contained in the report of survey of the —— instant, and in accordance with the cost of labor and material at the port of ——, as follows, viz.:

For heaving ship down on both sides, including use of hulk, blocks, falls, tackle, etc., (or, as the case may be, placing in dock)..... $
For taking out planks.....
For —— feet of plank, at $—— — per M.....
For —— carpenters, —— days each, —— days at $——.....
For —— lbs. nails.....
For —— lbs. copper spikes.....
For —— sheets felt.....
For —— lbs. oakum.....
For —— barrels pitch.....
For —— barrels tar.....
For —— barrels rosin.....
For —— sheets copper, —— lbs., at ——.....
For —— lbs. copper nails.....
For —— calkers, —— days each, —— days at $——.....
For —— carpenters.....
For use of pitch pots, boys, etc.....
For superintendence of master carpenter.....

$

——, 18—.

—— ——,
Master Ship-carpenter.

Form No. 68.

Consul's certificate authenticating signature to estimate.

Consulate of the United States of America at ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the foregoing is the true and genuine signature of —— ——, master ship-carpenter at ——, and as such is entitled to full faith and credit.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 69.

Advertisement for funds on bottomry to repair.

$——— to $———.

WANTED on the hull, spars, sails, rigging, and homeward freight of the ———, of ———, of the burden of ——— tons register, whereof ——— ——— is master, the sum of from ——— to ——— dollars for repairs and outfits to enable the said vessel to proceed to sea.

Proposals for the advance of the above sum will be received at the office of the United States consulate at ———, until ——— P.M. ———, 18—.

——— ———.

FORM No. 70.

Advertisement of sale of a vessel.

Will be sold at public auction, for account of whom it may concern, the ———, of ———, ——— tons registered burden, on the ——— day of ———, at ———.

The above vessel was built at ———, in the year ———, 18—, of, etc.,

For further particulars apply to the U. S. consulate at ———, or to the master on board, where inventories may be seen.

———,

Licensed Auctioneer.

FORM No. 71.

Certificate of consul to advertisement for funds on bottomry, where no proposals have been received.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

Printed ADVERTISEMENT to be here AFFIXED.

I, the undersigned, consul, etc. etc., do hereby certify that the annexed advertisement, in English and ——, was published in the —— ——, printed at ——, from the —— day of —— to the —— day of ——, 18—, inclusive.

I further certify that no proposals have been received at this consulate from any person or persons to advance the sum required by the ——, for repairs and outfit to enable her to proceed to sea.

Given, etc.

—— ——.

Where proposals have been received and accepted, the above certificate will be changed as follows, viz.:

I further certify that the proposals of —— ——, to advance the amount required by the —— for repairs and outfit to enable the said vessel to proceed to sea, of —— twenty per centum maritime premium, were the lowest proposals received, and they are, therefore, best entitled to advance the same.

FORM No. 72.

Certificate of consul to the advertisement of the sale of a vessel.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

Printed ADVERTISEMENT to be here AFFIXED.

I, the undersigned, consul, etc. etc., do hereby certify that the annexed advertisement, in English and ——, was published in the —— ——, from the —— day of —— to the —— day of ——, inclusive.

I further certify that, agreeably to the said advertisement, the ship —— was duly sold at this port, by public auction, for the sum of —— dollars, unto —— ——, he being the highest bidder therefor, as will appear by the account of sales of —— ——, licensed auctioneer, hereto annexed.

Given, etc. —— ——,
U. S. Consul.

FORM No. 73.

Inventory of a ship or vessel.

No. 1.

Inventory of ship ——, of ——, of the burden of —— tons register, advertised to be sold at —— P.M. the —— day of ——, by public auction, for account of whom it may concern, by —— ——, licensed auctioneer, viz.:

Ship ——, with hull, spars, sails, rigging, anchors, cables, boats, tackle, as she now lays at anchor in the harbor of ——.

One spare foresail,
One spare mainsail,
One spare foretopsail,
Etc., etc., etc.

——, 18—. —— ——,
Master.

FORM No. 74.

Declaration of master to inventory.

No. 2.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, master of the ——, of ——, and solemnly declared that the foregoing *inventory* contains a true and faithful *list* of the *tackle, apparel,* and *appurtenances* of the said ship, together with all articles on board and belonging to her, as made out by himself this day.

Given, etc.

[L. S.] —— ——,

—— ——, *U. S. Consul.*

Master.

NOTE.—It is optional with the master to make this declaration.

FORM No. 75.

Letter from master notifying consul of his intention to sell vessel and cargo.

No. 3. ——, 18—.

—— ——, Esq.,

U. S. Consul at ——.

SIR: Having failed in procuring on bottomry, or otherwise, the necessary funds required to repair the ——, under my command, I desire to notify you that I am, consequently, compelled to order the sale of said vessel, without delay, by public auction, as also that part of her cargo found damaged by the surveyors thereof, and recommended to be sold immediately; thus, in my opinion, best consulting the interests of all concerned.

I enclose herewith a duplicate of my letter addressed to —— ——, licensed auctioneer, to be filed in the consulate.

Very respectfully, etc.,

—— ——,

Master.

FORM No. 76.

Letter of master to auctioneer.

No. 4. ——, 18—.

—— ——, Esq.,

Licensed Auctioneer at ——.

SIR: As agent for whom it may concern, I hereby request you to advertise and sell, by public auction, to the highest bidder, the ——, her tackle, apparel, and appurtenances, as per inventory herewith, as she now lays at anchor in this harbor; also that part of her cargo found damaged, and recommended to be sold by the board of survey, for account of whom it may concern.

You will please render distinct account of sales of ship and cargo (in triplicate) under your own hand, to the United States consulate at this port.

I am, respectfully, etc.,

—— ——,

Master.

FORM No. 77.

Consul's certificate authenticating copies of inventories and letters.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned, consul, etc., do hereby certify that the foregoing inventory, and the declaration thereunto, both hereto annexed, and letters signed —— ——, master, numbered 1, 2, 3, 4, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by me, and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, etc.

—— ——,

U. S. Consul.

FORM No. 78.

Account of sale of a vessel.

No. 1.

Account of sale of ship ——, of ——, of the burden of —— tons, sold by the undersigned, for account of whom it may concern, by order of —— ——, master, viz.:

The ship ——, as per inventory, unto —— ——, for $

CHARGES.

Advertising..... $
Printing inventories.....
Government dues.....
Auction commission .....
Consul's attendance at sale.....

$

———, 18—.

——— ———,
Licensed Auctioneer.

FORM No. 79.

Consul's certificate authenticating signature of auctioneer.

No. 2.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the foregoing is the true and genuine signature of —— ——, licensed auctioneer for the port of ——, and as such is entitled to full faith and credit.

Given, etc.

——— ———,
U. S. Consul.

FORM No. 80.

Consul's certificate authenticating copy of account sale.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the foregoing account sales, signed by —— ——, licensed auctioneer, and the certificate thereto, signed —— ——, U. S. consul, numbered 1 and 2, are true and faithful copies of the originals filed in this consulate, the same having been carefully examined by myself, and compared with the said originals, and found to agree therewith word for word and figure for figure.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 81.

Certificate of consul on cancelling ship's register.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul of the United States, etc. etc., do hereby certify that the ship ——, of ——, —— —— master, has been duly condemned and sold, at this port, by public auction, and the register of the said ship, numbered —— has been this day cancelled, the one-half thereof delivered by me unto the said master, and the second half retained in this consulate, to be forwarded to the Register of the Treasury.

Given, etc.

—— ——,
U. S. Consul.

Form No. 82.

Bottomry bond.

Know all men by these presents, That I, —— ——, now master and commander of the —— or vessel called the ——, of the burden of —— tons, or thereabouts, now lying in the port of ——, am held and firmly bound unto

in the sum of ————, lawful money of the United States of America, to be paid to the said —— ——, or to —— certain attorney, executors, administrators, or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, and also the said vessel, her tackle, apparel, and furniture, firmly by these presents. Sealed with my seal, at ——, this —— day of ——, in the year of our Lord one thousand eight hundred and ——. Whereas the above bounden —— ——, hath been obliged to take up and borrow, and hath received of the said —— ——, for the use of the said vessel, and for the purpose of fitting the same for sea, the sum of ————, lawful money of the United States of America, which sum is to be and remain as a lien and bottomry on the said vessel, her tackle, apparel, and furniture, ————

at the rate or premium of ———— for the voyage. In consideration whereof, all risks of the seas, rivers, enemies, fires, pirates, etc., are to be on account of the said —— ——. And for the better security of the said sum and premium, the said master doth, by these presents, hypothecate and assign over to the said —— ——, — heirs, executors, administrators, and assigns, the said vessel, her tackle, apparel, and furniture, ————

And it is hereby declared, that the said vessel, —— is thus hypothecated and assigned over for the security of the money so borrowed and taken up as aforesaid, and shall be delivered for no other use or purpose whatever, until this bond is first paid, together with the premium hereby agreed to be paid thereon.

Now the condition of this obligation is such, that if the above bounden —— —— shall well and truly pay, or cause to be paid, unto the said

the just and full sum ———— lawful money as aforesaid, being the sum borrowed, and also the premium aforesaid, at or before the expiration of —— days after the arrival of the said vessel at ————

then this obligation, and the said hypothecation, to be void and of no effect; otherwise, to remain in full force and virtue. Having signed and executed —— bonds of the same tenor and date, one of which being accomplished, the other to be void and of no effect. ——— ———, [L. S.]

Signed, sealed, and delivered in the presence of—

——— ———,

——— ———.

FORM No. 83.

Acknowledgment to bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, —— ——, consul, etc., do hereby certify that —— ——, master of the ——, of ——, the party to the aforesaid bottomry bond or instrument of writing, personally came before me, and executed the said bond in my presence, and in presence of the witnesses thereunto, and acknowledged the same to be his free act and deed for the purposes therein mentioned.

Given, etc.

—— ——, *U. S. Consul.*

FORM No. 84.

Assignment of bottomry bond.

We hereby assign our rights in the within bond to —— ——, —— ——, merchants of ——, that it may be paid to them or to their order.

—— ——.

FORM No. 85.

Acknowledgment to assignment of bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned, consul, etc., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, one of the firm of —— ——, parties to the foregoing assignment, and executed and acknowledged the same in my presence to be the act and deed of the said firm for the purposes therein mentioned.

Given, etc.

—— ——, *U. S. Consul.*

FORM No. 86.

Endorsement of bottomry on ship's register.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that —— ——, master of the ——, of ——, described in the within register, has this day hypothecated the said vessel, ——, unto —— ——, merchants of ——, in the penal sum of —— dollars.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 87.

Endorsement on register on the payment of a bottomry bond.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, and acknowledged before me the receipt of the sum of —— dollars, called for by the terms and conditions of a bottomry bond executed by —— ——, master of the ——, of ——, the —— day of ——, 18—, at ——, and that the said bond has been this day duly cancelled according to law.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 88.

Declaration and oath of master to death or loss overboard at sea of a seaman or mariner.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that on the day of the date hereof, before me personally appeared —— ——, master of the ——, of ——, and made oath, in due form of law, that —— —— died at sea, (or was lost overboard at sea, as the case may be,) on board the said ship, on or about the —— of ——, 18—, on the voyage from —— to this port.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 89.

Declaration and oath of master or mate to correctness of log-book.

On the —— day of ——, A.D. 18—, before me, the undersigned, consul, etc., personally appeared —— ——, (master or mate, as the case may be) and made oath, in due form of law, that the journal of the voyage from —— to ——, commencing on the —— and ending on the ——, and embraced within folios from —— to ——, contains a true and faithful log, written by himself, of the transactions on board the said ——, day by day as they occurred.

—— ——,
U. S. Consul.

[L. S.]

——,
Master (or Mate.)

Form No. 90.

Declaration and oath of master to ship's bills and vouchers for disbursements and repairs.

Consulate of the United States of America at ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, master of the ——, of ——, and made oath, in due form of law, that the bills and accounts hereunto annexed, numbered from —— to ——, inclusive, are the true and genuine vouchers relating to the cost of the repairs and disbursements of the said ship at this port, superintended by himself.

——— ———,
Master.

Subscribed and sworn to before me
the date above written.

——— ———,
U. S. Consul.

Form No. 91.

Consul's certificate for custom-house or authorities, in cases of the deviation of a vessel from the voyage.

Consulate of the United States of America at ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the ——, of ——, —— —— master, bound from —— to ——, arrived at this port on the —— instant, laden with ——, in a damaged state and condition, and in order to repair the said —— it is necessary to discharge the cargo, as appears by the note of protest of the said master, made before me the —— day of ——, 18—, and the report of survey of the said vessel, filed in this consulate. I further certify that it likewise appears, from said report of survey and protest, that a part of said cargo was thrown overboard at sea on the voyage from —— to this port.

Given, etc.

——— ———,
U. S. Consul.

Form No. 92.

Consul's certificate given to master when ship's register is retained entire in the consulate.

Consulate of the United States of America at ——,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that the ——, of ——, was sold at this port on the —— day of ——, unto —— ——, a citizen of the United States, and that —— ——, late master, has this day duly received the crew list and shipping articles of the said ship.

I further certify that the register of the said ship, deposited by the said master, has been retained in this consulate.

Given, etc.

—— ——,
U. S. Consul.

Form No. 93.

Consul's certificate on conduct of crew on board, imprisonment, etc.

U. S. Consulate,
——, 18—.

I, the undersigned, consul, etc. etc., do hereby certify that —— ——, —— ——, and —— ——, seamen or mariners belonging to the ship ——, of ——, —— —— master, were placed in irons on board the said ship by the said master, for refusal of duty and insubordinate conduct, and afterwards taken on shore and imprisoned with my consent.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 94.

Consul's certificate given to a seaman at the time of his discharge.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I hereby certify that —— —— has been duly discharged according to law from the ——, of ——.

{ Seal of the consulate. } ——— ———,
U. S. Consul.

Gratis.

NOTE.—Duplicate discharges will not be granted to the seaman or mariner in the event of the loss of the original.

FORM No. 95.

Consul's certificate and oath of new master.

I, —— ——, do solemnly and truly swear that I am a citizen of the United States of America, having been born in ——, (or naturalized, as the case may be.)

——— ———.

Sworn and subscribed to this —— day
of ——, before me.

——— ———,
U. S. Consul.

CONSULATE OF THE UNITED STATES OF AMERICA AT——,
——, 18—.

I, the undersigned, consul of the United States of America, etc., do hereby certify that —— ——, having taken and subscribed the oath required by law, is at present master of the ——, of ——, in lieu of —— ——, the former master.

Given, etc.

——— ———,
U. S. Consul.

FORM No. 96.

Certificate of ownership of a vessel.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that the ——, of ——, of the burden of —— tons, —— —— master, was built at ——, in the year ——, and is owned by —— ——, of ——, State of ——.

Given, etc.

—— ——,

U. S. Consul.

FORM No. 97.

Roll or list of crew when required by the captain or authorities of the port.

CONSULATE OF THE UNITED STATES OF AMERICA.

Roll or list of the crew of the ——, of ——, of the burden of ——, whereof —— —— is master, bound to ——.

Names of seamen or mariners.	Stations.	Country to which they belong.

Embracing in this roll —— seamen and mariners, including the captain.

—— ——,

U. S. Consul.

——, 18—.

Form No. 98.

Certificate to shipping articles.

Consulate of the United States of America at——,
——, 18—.

I, the undersigned, consul, etc., do hereby certify that the shipping articles of the ——, of ——, hereto annexed, were made out and signed in this consulate, and that the same were read and explained by me to the parties whose names are subscribed thereto, comprising the crew of said ——, each of whom personally acknowledged that he fully understood the same, and had signed his name thereto of his own free will and accord.

—— ——,
U. S. Consul.

Form No. 99.

DEBENTURE CERTIFICATE.

Certificate of the consignee.

The following certificate must express the marks and numbers, if any, on the packages; the number of packages and contents, with weight, measure, or gauge, (in letters, not figures,) and be signed by the consignee residing abroad; *but if the goods are consigned to the master, or any other person on board the vessel, it must be signed by the purchaser or purchasers, specifying that he or they were such:* and then verified and sworn to according to the subsequent forms.

I, —— ——, of the ——, of ——, merchant, do hereby certify that the goods or merchandise hereinafter described have been landed in this ——, between the —— and ——, 18—, from on board the ——, of ——, whereof —— —— is at present master, viz.:

Marks.	Numbers.

Which, according to the bills of lading for the same, were shipped on board the ——, at the port of ——, in the United States of America, on or about the —— day of ——, 18—, and consigned to —— —— by —— —— aforesaid merchant.

Given under —— hand—, at ——, this —— day of ——, 18—.

—— ——.

Form No. 99—Continued.

Oath of the master and mate.

NOTE.—This oath should be made before a consul of the United States at the place of landing; or, if none such reside there, before some properly constituted authority. It will be valid if not made until the vessel returns; the contingency of the death of her officers, however, suggests the propriety of its being made abroad.

PORT OF ——.

We, —— ——, master, and —— ——, mate, of the ——, of ——, lately arrived in the port of ——, from ——, in the United States of America, do solemnly swear that the goods or merchandise enumerated and described in the preceding certificate, dated the day —— of ——, and signed by —— ——, of the city of ——, merchant, were actually delivered at the said port from on board the said ——, within the time specified in the said certificate.

Sworn at the —— of ——, before me, this —— day of ——, 18—.

—— ——, *U. S. Consul.*

—— ——, *Master.*

—— ——, *Mate.*

Consul's certificate.

NOTE.—This verification to be signed by the consul or other public agent of the United States, if one reside at the place.

I, —— —— of the United States of America at the —— of ——, do declare that the facts set forth in the preceding certificate, subscribed by —— ——, of the said city, merchant, and dated the —— day of ——, are (to my knowledge, or in my opinion) just and true, and deserving full faith and credit.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of my office, at ——, this —— day of ——, 18—.

[L. S.]

—— ——, *U. S. Consul.*

Merchants' certificate.

NOTE.—In the absence of a consul or other public agent of the United States at the place of landing, this verification shall be signed by two American merchants; or, if there be none such residing there, by two respectable foreign merchants, in which case the last blank should be filled up with the words, "nor American merchants."

We, —— —— —— ——, merchants, residing at the ——, of ——, do declare that the facts stated in preceding certificate, signed by —— ——, of the said ——, merchants, on the —— day of ——, are (to my knowledge, or in my opinion) just and true, and worthy of full faith and credit. We also declare that there is no consul or public agent of the United States of America, nor —— —— now residing at this place.

Given under —— hand-, at the —— of ——, aforesaid, this —— day of ——, 18—.

—— ——.

—— ——.

Form No. 100.

Application of a citizen of the United States for a sea letter.

——, 18—.

—— ——, Esq.,

U. S. Consul at ——.

Sir: The undersigned, a citizen of the United States of America, residing in ——, State of ——, temporarily sojourning in ——, having this day purchased the American ship ——, of ——, of the burden of —— tons, respectfully solicits the requisite sea letter and papers identifying the undersigned as the owner, and that will enable the said ship to remain under and wear the flag of the United States of America. Said sea letter and papers will be required until such time as the said ship may arrive within the jurisdiction of a collector of the customs of the said United States, authorized to receive the same, and to issue in lieu thereof a new register or such papers granted by the laws of the United States to the owners of American vessels, purchased in foreign countries by citizens of the United States of America.

Respectfully, your obedient servant,

—— ——.

Form No. 101.

Sea Letter.

To all to whom these presents shall come or may concern, Greeting:

Know ye, That whereas the ——, of ——, of the burden of —— tons, described in the bill of sale and register hereto annexed, was duly sold at this port on the —— day of ——, at public auction, for account of whom it may concern, unto —— ——, a citizen of the United States, he being the highest bidder therefor. And whereas the said —— ——, desiring that the said —— shall remain under and continue to wear the American flag until her return to a port in the United States, where may be obtained a new register or such other papers as are usually granted to American vessels purchased by citizens thereof in foreign countries.

Now, therefore, in consideration of the foregoing premises, this sailing letter is granted, with permission to the said ——, whereof —— —— is master, to proceed hence to —— ——, and there procure such register or papers, in accordance with the laws regulating the registering of vessels purchased by citizens of the United States, as aforesaid.

This sailing letter to be used for the purposes above described only, and to be delivered to the collector of customs where the said vessel shall first arrive in the said United States.

Given under my hand and the seal of the consulate of the United States at

[L. S.] ——, this —— day of ——, A.D. 18—.

—— ——, *Consul.*

FORM No. 102.

Certificate of new ownership of a vessel.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,

——, 18—.

I, the undersigned consul, etc. etc., do hereby certify that it appears by a bill of sale, dated ——, 18—, executed by —— —— and —— ——, of ——, State of ——, before —— ——, that the ship ——, named and described in the within register, has been duly transferred and sold unto —— —— —— ——, of ——, and that they are now the legal owners of the said ——.

Given, etc.

—— ——,

U. S. Consul.

FORM No. 103.

Order to pay, at home, seamen's wages or voyages.

——, 18—.

SHIP —— AND OWNERS:

On the termination of the voyage of the ——, pay to —— ——, or order, what may be due to him for his voyage in said ——, he being this day discharged at this port by mutual consent. The said —— —— is entitled to the —— lay, the ship having been out, and he having served in her at the time of his discharge —— months and —— days, and the quantity of oil and bone taken, including that held and shipped, as well as that now on board, being —— barrels of whale oil, and —— pounds of bone.

—— ——,

Master.

Witness:

—— ——.

FORM No. 104.

Master's acknowledgment to the same.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

I, the undersigned consul, etc., do hereby certify that on the day of the date hereof, before me personally appeared —— ——, master of the ——, of ——, who, in my presence, and in presence of the witnesses thereunto, signed the foregoing order, and acknowledged the same to be correct in all of its particulars, and to be his voluntary act and deed for the purposes therein mentioned.

Given, etc.

—— ——,
U. S. Consul.

FORM No. 105.

Consul's order to send seamen to hospital.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
——, 18—.

SIR: You will please admit into your hospital —— ——, an invalid destitute American seaman, requiring medical aid, for account of this consulate.

I am, sir,
Your obedient servant,

—— ——,
U. S. Consul.

—— ——, *M.D.*

FORM No. 106.

Consul's order to imprison seamen or mariners.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

SIR: —— ——, —— ——, and —— ——, part of the crew of the ——, of ——, whereof —— —— is master, recently arrived in this port from ——, having conducted themselves in an improper and insubordinate manner on board, and positively refused to do duty, I have the honor respectfully to request that you will please cause the said named persons to be arrested, brought on shore, and imprisoned until I can find it expedient to give them their liberty.

I have the honor to be, sir, your obedient servant,

——— ———,
U. S. Consul.

To ——— ———,
Captain (or authorities of the port.)

NOTE.—See section 541 et seq. of the Regulations.

FORM No. 107.

Consul's order to release seamen or mariners from prison.

CONSULATE OF THE UNITED STATES OF AMERICA AT ——,
———, 18—.

SIR: I have the honor to request that you will please cause to be released from prison —— ——, —— ——, and —— ——, the seamen or mariners belonging to the ——, —— —— master.

I have the honor to be, sir,

——— ———,
U. S. Consul.

To ——— ———,
Captain (or other authorities of the port.)

Form No. 108.

Consul's letter requesting the arrest of deserters.

Consulate of the United States of America at——,
——, 18—.

Sir: —— ——, —— ——, and —— ——, three of the seamen belonging to the ——, of ——, whereof —— —— is master, recently arrived from ——, having absconded at this port from the said ——, I have the honor respectfully to request that you will please cause warrants to be issued for their arrest and imprisonment, and that they be retained subject to the order of this consulate.

I have the honor to be, sir, your obedient servant,

——— ———,
U. S. Consul.

To ——— ———,
Captain (or authorities of the port.)

Note.—See section 552 et seq. of the Regulations.

Form No. 109.

Consul's certificate of the shipment of seamen or mariners attached to crew list and shipping articles.

Consulate of the United States of America at ——,
——, 18—.

I, —— ——, consul of the United States of America for ——, and the dependencies thereof, do hereby certify that the seamen or mariners hereinafter named, have been duly shipped at this port, before me, upon the terms and conditions set opposite their names, respectively, viz.:

Names of seamen or mariners.	Stations.	Age.	Height.		Country to which they belong.	Lay or share of oil or cargo.	Monthly wages	Advance wages.	Voyage.
			Feet.	Ins.					

Given, etc.

——— ———,
U. S. Consul.

Form No. 110.

Agreement of master to give increased wages to seamen.

I, —— ——, master of the ——, of ——, taking into consideration the high rate of wages for seamen, ordinary seamen, cooks, and stewards, out of the port of ——, do hereby agree and bind myself to pay or cause to be paid the sum of —— dollars to the ordinary seamen, —— dollars to the seamen, and —— dollars to the —— hereinafter named belonging to the said vessel, as increased wages, beginning from the —— day of ——, and continuing until the termination of the voyage agreeably to the contract of shipping articles signed by them, a certified copy of which is hereto annexed, dated ——, 18—.

—— ——,
Master.

Attested:
[L. S.] —— ——,
U. S. Consul.

Form No. 111.

Voucher for burial expenses.

Consulate of the United States of America, at ——,

To —— ——, Dr.

For burial expenses of the following named destitute American seamen, who died at ——, during the quarter ending —— day of ——, 18—:

November 22, —— ——	$4 00
" 26, —— ——	4 00
	$8 00

Received, ——. 18—, from —— ——, U. S. consul at ——, the sum of —— in full of the above bill.

—— ——.

Form No. 112.

Passport visa.

Seen at the consulate of the United States of America at ——, 18—, and good for the voyage to —— (or journey, as the case may be.)

—— ——,
U. S. Consul.

Form No. 113.

Bill of sale of a vessel.

Know all men by these presents, that we, —— —— and —— ——, owners of the ——, of ——, for and in consideration of the sum of —— to —— —— in hand paid at or before the ensealing and delivery of these presents, by —— ——, the receipt whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said —— ——, —— executors, administrators, and assigns, —— together with —— her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances, as she ——, and as she is more particularly described in a certificate of register granted her at the port of ——, in the following words:

[Here insert copy of the register.]

To have and to hold the said ——, and the appurtenances thereunto belonging, unto the said —— ——, —— executors, administrators, and assigns, to the only proper use and behoof, and as the proper goods and chattels of the said —— ——, —— executors, administrators, and assigns, from henceforth forever; and we, the said —— —— and —— ——, for ourselves, our executors, and administrators, do hereby covenant and agree to and with the said —— ——, — executors, administrators, and assigns, that at the execution of these presents, we are, as aforesaid, the true and lawful owners of the said —— called the ——, of ——, with the appurtenances thereunto belonging, and have full right and authority to sell and dispose of the same, and that she is freed from and cleared of all claims, encumbrances, or demands whatsoever.

In witness whereof —— have hereunto set —— hand- and seal-, the —— day of ——, A.D. 18—.

—— —— [L. S.]

Signed, sealed, and delivered
in the presence of—

—— —— [L. S.]

—— ——.

Form No. 114.

Acknowledgment to bill of sale.

Consulate of the United States of America at——,

——, 18—.

I, the undersigned consul, etc., do hereby certify that —— —— signed and sealed the above bill of sale in my presence and in presence of the witnesses thereto, and acknowledged the same to be his act and deed for the purposes therein mentioned.

Given, etc.

—— ——,

U. S. Consul.

Form No. 115.

Mortgage bill of sale of a vessel.

Know all men by these presents, that whereas —— —— is indebted unto —— ——, of ——, in the sum of —— dollars, and to secure the payment thereof on or before the ——, the said —— —— desires to mortgage all his —— or vessel called the ——, of ——: Now know ye, that the said —— ——, for and in consideration of the premises, and also of the sum of one dollar to —— in hand paid at the time of the ensealing and delivery of these presents, by —— ——, the receipt whereof is hereby acknowledged, —— granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over, unto the said —— ——, together with ——, her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances, as she is at this time, and is more particularly described in a certificate of register granted her at the port of ——, in the following words:

[Here insert copy of register.]

To have and to hold (as per concluding part of a bill of sale for a vessel.) Provided always, and these presents are upon this condition, nevertheless, that if the said —— ——, executors or administrators, shall well and truly pay, or cause to be paid, unto the said —— ——, executors, administrators, or assigns, the sum of ——, and the interest, at the time limited as aforesaid, that then and from thenceforth these presents, and everything herein contained, shall cease and determine, and be absolutely void; otherwise, to be and remain in full force and virtue. And it is hereby covenanted and agreed, by and between the parties to these presents, that if default shall be made in the payment of the said ——

---

then and from thenceforth it shall be lawful for the said —— ——, executors, administrators, or assigns, to enter upon, and take possession of —— or vessel. her masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances aforesaid; and to grant, bargain, sell, and dispose of the same, and all other the premises aforesaid, at public auction or vendue, in the city of ——, or elsewhere, first giving —— days' notice of the time and place of such sale, and as the attorney of the said —— ——, or otherwise, to make, seal, execute, and deliver to the purchaser or purchasers thereof, a good and sufficient bill of sale, or other conveyance therefor; and out of the moneys arising from such sale, to retain all such sum or sums of money which shall then be due on such ——, according to the true intent and meaning thereof; together with all costs and expenses attending such sale; returning the surplus money (if any) to the said —— ——, executors, administrators, or assigns.

In witness whereof, —— have hereunto set —— hand and seal this —— day of ——, in the year of our Lord one thousand eight hundred and ——.

—— ——. [L. S.]

Signed, sealed, and delivered in the presence of— }

—— ——

Form No. 116.

Protest of the master of a vessel against charterers or freighters.

Whereas the surveyors of the ship ——, of ——, —— —— master, of the —— day of ——, have recommended the said ship to proceed to a port of discharge, in the United States, after temporary repairs, and with as much cargo as will render her perfectly safe, and that she be there thoroughly overhauled and permanently repaired. And whereas, in order to reach a port of discharge with safety and despatch, where the repairs recommended in the said survey may be done and performed, it is better for all parties concerned that the voyage should be made direct from the port of —— to the said port of permanent repair in the United States. And whereas —— ——, master of the ship ——, of ——, aforesaid, has determined to proceed direct to the port of ——, there to thoroughly overhaul and repair the said ship, as recommended by the said survey, but in order to accomplish this end, and in lieu of touching at —— for orders, and for the privilege of the said direct port he has been obliged to give up and yield to the charterers of the said ship one dollar per ton upon the number of tons of ——, delivered at the said port of ——, amounting in the aggregate to the sum of —— dollars, more or less. Now know all men by these presents, that on the day of the date hereof, before me —— ——, consul of the United States of America for ——, and the dependencies thereof, personally came and appeared —— ——, before named, and after stating the facts contained in the foregoing premises, hath protested, like as by these presents, I, the said consul, at his special instance and request, do publicly and solemnly protest, against all and every person and persons whom it doth, shall, or may concern, and against the charterers of the said ship, for exacting the amount of —— dollars, aforesaid, claiming and demanding the reimbursement of the same from those to whom the same of right may appertain by way of average or otherwise upon the arrival of the vessel at the port of permanent repairs as aforesaid.

In testimony whereof, the said —— —— hath hereunto subscribed his name, and I, the said consul, set my hand and affixed the seal of this consulate this —— day of ——, A.D. 18—.

[L. S.]

——— ———,
U. S. Consul.

——— ———,
Master of the ———.

Form No. 117.

Average bond.

Whereas the ———, of ———, of the burden of ——— tons, ——— ——— master, on her voyage from ——— to ———, laden with ———, encountered boisterous and tempestuous weather, whereby she became disabled, and for the safety of all concerned had to be carried into ———, where the cargo was landed and the vessel repaired, and certain expenses were thus incurred in the nature of general average; and the said vessel having arrived at the port of ———, the said master declines to deliver the said cargo, or any part thereof, until he is secured in the payment of all such average, share, or proportion of the said expenses as justly falls unto the said cargo. Now we, the subscribers, owners and consignees of the cargo shipped on board the ———, at ———, as aforesaid, do hereby promise and agree and bind ourselves respectively by these presents, to pay, or cause to be paid, to the said master, or his assigns, our respective proportions or parts of the general average, and other expenses accrued or accruing as above mentioned, as soon as the same shall be properly adjusted and ascertained agreeably to established custom, usage, and rule of trade in ——— in similar cases.

———, ———, 18—.

Name of owner and consignee.	Cargo.	Interest.

Form No. 118.

Charter Party.

This charter party of affreightment, made and concluded this —— day of ——, in the year of our Lord eighteen hundred and ——, between —— ——, of the city of ——, merchants, agents for the American brig or vessel called the —— of ——, now lying in the port of ——, whereof —— —— is master, of the one part, and —— ——, of ——, aforesaid, merchants, charterers or freighters of said brig, of the other part: Witnesseth, that the said —— ——, as agents aforesaid, for the consideration hereinafter mentioned, have this day letten the said brig or vessel to freight, and by these presents do let her whole reach, burden, and appurtenances to the said freighters, reserving only the cabin for the master and officers and sufficient room under the deck for the crew, provision, cable, etc., for a voyage from —— to ——, or to ——, at the option of said freighters, with the privilege of using the port of —— for orders; and the said freighters have, by these presents, hired the same in manner and form following, that is to say: that the said brig is now, and at all times during the said voyage shall be, at the expense of her owners, to be kept tight, staunch, and strong, well manned, victualled, and provided with everything necessary for the said voyage, and also that the said brig, being now ready, shall immediately receive and take on board in the port of ——————————

——————————————————————————

as said brig can with safety stow and carry, which are to be furnished by the said freighters, alongside of said brig within reach of her tackle; and also that said brig, being so laden, the master shall, with the first favorable opportunity of wind and weather thereafter, depart with the said brig, and the cargo on board, and proceed direct to any one of the above mentioned ports or places as may be designated by the said freighters, or he shall proceed direct to ——, to receive orders, and then proceed to whichever of the said ports or places he may there be directed to proceed to, and upon his arrival at such port, make a safe delivery of the said cargo to the said freighters, their agents or assigns, in the usual and customary manner of delivering such cargoes in such port, the delivery to be made within reach of the brig's tackle, and for the loading at —— and unloading at the outward port or ports shall lay —— running days, if required, and so end the voyage, the dangers of the seas, restraints of princes and rulers, fire and enemies, during the time, always excepted. In consideration whereof, the said —— —— promise and agree not only to deliver the cargo at ——, as aforesaid, receive the same at one of the ports in Europe as aforesaid, within the days limited as aforesaid, but shall and will pay or cause to be paid to —— ——, of ——, their agents or assigns, in full for the freight, hire and port charges of said brig —— and —— for each and every ——, and —— for each and every —— on board the said brig with —— per cent. primage, the whole to be considered earned, due, and payable on delivery of said cargo at the port of discharge, free and clear of any commissions or discounts whatsoever, in the lawful currency of ——, together with the sum of —— demurrage for each and every day that said brig shall be detained over and above the time hereinbefore limited, provided the same shall be caused by the said freighters, their agents or assigns. And for the true and faithful performance of this agreement, according to its true intent and meaning, the said agents bind the said —— ——, and the freight earned and to be earned, and the said freighters bind themselves and the merchandise laden and to be laden on board the said brig, each to the other, in the penal sum of ——, lawful money of ——, firmly by these presents.

In witness whereof, the said parties have hereunto subscribed the names of their respective firms, the day and year aforesaid.

—— ——.
—— ——.

Signed, sealed, and delivered
in presence of—
—— ——.

Form No. 119.

Charter Party.

This charter party of affreightment, made and concluded this ——— day of ———, in the year of our Lord eighteen hundred and ———, between ——— ———, of ———, owner of the ——— or vessel called the ———, of ———, of the burden of ——— tons, or thereabouts, of the one part, and ——— ———, of ———, of the other part: Witnesseth, that the said ——— ———, for himself and the other owners of said vessel, for the consideration hereinafter mentioned, hath hired to freight, and by these presents doth hire to freight, the said ———, her apparel and furniture, for a voyage to commence at ———, and on the arrival of said ——— there, the master shall receive and take on board (in the usual manner in that port) as full a cargo of ——— as said vessel can with safety stow and carry under deck; and immediately after being so laden, the master shall, with the first favorable opportunity of wind and weather thereafter, proceed with the vessel and said cargo direct to the port of ———, and upon her arrival there make a safe delivery of the said cargo in the customary place or places, and in the usual manner of making deliveries in similar cases, to the said ——— ———, his agents or assigns, and for orders and for loading at ———, ——— running lay days, and for unloading on her return to ——— shall lay, say ——— days, if required, and so end the voyage, the dangers of the seas, restraints of rulers, and other unavoidable accidents, always excepted. In consideration whereof, the said ——— ——— covenants, promises, and agrees, not only to deliver a cargo as aforesaid at ———, and receive the same at ——— as aforesaid, but shall and will pay, or cause to be paid, to the said ——— ———, his agents or assigns, in full for the freight hire of said ———, for the voyage aforesaid, ——— in lawful money of the United States, for each and every hundred pounds of ——— that may be shipped at ———, with ——— dollars, lawful money aforesaid, for each and every day that said vessel may be detained by said freighter over and above the days hereinbefore limited, the whole amount to be considered earned, due, and payable on the landing of said cargo at ———.

And for the true and faithful fulfilment of this agreement, according to the true intent and meaning thereof, the said part owner binds the said ———, her tackle and appurtenances, and the freight earned and to be earned; and the said freighter binds the cargo laden and to be laden on board, each to the other, in the penal sum of ——— dollars, firmly by these presents.

In witness whereof, the said parties have hereunto set their hands and seals, the day and year aforesaid.

——— ———. [SEAL.]
——— ———. [SEAL.]

Signed, sealed, and delivered in the presence of— }
——— ———.

Form No. 120.

Will.

In the name of God. Amen! I, —— ——, of ——, being of sound mind and understanding, do make this my last will and testament, as follows, viz.:

Firstly. I desire that all my just debts, funeral, and testamentary expenses be paid and satisfied by my executors hereinafter named, as soon after my decease as practicable.

Secondly. I give, devise, and bequeath unto —— —— (all and every of my household furniture, linen, wearing apparel, books, plate, and also all such sum and sums of money which may be in my house or about my person, or which may be due and owing to me at the time of my decease.)

Thirdly. Etc., etc.

And I do nominate, constitute, and appoint.—— —— to be my executors of this my last will and testament, hereby revoking all former or other wills made by me at any time heretofore, and declare this to be my last will and testament.

In witness whereof, I, the said —— ——, have, to this my last will and testament, set my hand, the —— day of ——, in the year A.D. 18—.

——— ———.

Signed and declared by the said —— ——, the testator, as and for his last will and testament, in the presence of us, who, at his request, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

——— ———.

——— ———.

Form No. 121.

Bill of Health.

Consulate of the United States of America at ——.

I, —— ——, consul, etc., do hereby certify, that the —— or vessel called the ——, of ——, of the registered burden of —— tons, whereof —— —— is master, navigated by —— men, and having on board —— passengers, being in all —— persons on board, cleared this day at this port for ——.

I further certify, that in this port and its vicinity, good health prevails, without any suspicion of plague or contagious distemper whatsoever.

Given, etc.

——— ———,

U. S. Consul.

Form No. 122.

Acknowledgment to a deed or instrument of writing.

On this —— day of ——, A.D. 18—, before me, the undersigned U. S. consul for ——, personally appeared —— ——, known to me to be the person described in, and who executed the foregoing deed, and acknowledged the same to be his act and deed, and declared that he had executed the same freely and voluntarily, to the uses and for the purposes therein mentioned.

Given, etc.

[L. S.]

——— ———,
U. S. Consul.

Form No. 123.

Usual form of draft.

Consulate of the United States of America at ——,
———, ———, 18—.

———
$
———

Fifteen days after sight, (acceptance waived,) of this my first of exchange, (second and third of the same tenor and date unpaid,) pay —— ——, or order, —— $\frac{}{100}$ dollars, the amount of disbursements at this consulate on account of —— ——, for the quarter ending ——, as per advice.

——— ———,
U. S. Consul.

Hon. —— ——,
Secretary of State (or Secretary of the Treasury, as the case may be,) of the United States, Washington.

Note.—The quarter is reckoned at the Treasury from the commencement of the fiscal year, which is on the 1st of July. In drawing upon the State or Treasury Department, consular officers will always insert in their drafts the words "acceptance waived."

FORM No. 124.

Second form of draft.

——— OF THE UNITED STATES,

———, 186—.

$

Fifteen days after sight of this first of exchange, (acceptance waived, and endorsements by procuration excepted,) second and third unpaid, pay to the order of —— —— —— dollars, and charge the same to my account for —— ——.

——— ———,

U. S. Consul.

To the Hon. —— ——,

Secretary of ———,

Washington, D. C.

FORM No. 125.

Form of certificate to accompany the account of a salaried consul while receiving his instructions, immediately after appointment.

I hereby certify, that I have been actually and necessarily occupied in receiving my instructions —— days; that is, from the —— day of ——, 18—, the date of my commission as United States consul at ——, to the —— day of —— following, the date of the receipt of the despatch from the Department of State enclosing my passport.

——— ———,

U. S. Consul.

Form No. 126.

Form of certificate to accompany the account of a salaried consul for compensation while making the transit to his post of duty.

I hereby certify, that I have been actually and necessarily occupied in making the transit between my place of residence and post of duty —— days, having left ——, the place of my residence, on the —— day of ——, 18—, and arrived at ——, my post of duty, on the —— day of —— following.

——— ———,

U. S. Consul.

Form No. 127.

Form of certificate to accompany the account of a consul for compensation while making his transit from his post of duty to his place of residence.

I hereby certify, that I have been actually and necessarily occupied in making the transit between my post of duty and the place of my residence —— days, having left ——, my post of duty, on the —— day of ——, 18—, and arrived at ——, my place of residence, on the —— day of —— following.

——— ———,

Late U. S. Consul.

Form No. 128.

Condensed Statement of Navigation and Commerce of the United States at the port of ——— during the quarter ending ——— 186–.

(Made up from Consular Returns.)

VESSELS.				CARGOES.					
ENTERED.		CLEARED.		INWARD.			OUTWARD.		
No. of vessels.	Where from.	No. of vessels.	Where for.	No. of vessels.	Description.	Value.	No. of vessels.	Description.	Value.
5	In port	2	Boston	2			2	Sugar, 344 hhds.; coffee, 5757 bags	$95,000
		3	London	3			3	Teas, silks, drugs, etc	287,000
8	Boston	5	Boston	5	Provisions, ice, furniture, etc	$99,500	5	General cargo	110,000
		2	New Orleans	2	Lumber, provisions, etc	25,250	2	Dry goods and wines	55,000
		1	Hong Kong	1	General cargo	50,500	1	Inward, put in for repairs	50,500
3	New York	1	Havana	1	Flour, 2000 bbls., and provisions	20,000	1	Flour, 2000 bbls., part of inward	15,000
		1	In port	1	Provisions and machinery	17,500	1	In port	
		1	Condemned	1	Chairs and assorted cargo	15,250	1	Vessel condemned	
3	Baltimore	2	Cardiff	2	Tobacco, 750 hhds	93,750	1	Guano, 1600 tons	48,000
							1	Ballast	
4	New Orleans	1	London	1	Tobacco, 450 hhds., and staves	75,000	1	Saltpetre, wool, and silver	85,000
		3	Melbourne	3	Cotton, 10,125 bales	356,250	3	General cargo	250,000
		1	Sold	1	Cotton, 2550 bales, and staves	100,500	1	Vessel sold, and took Spanish flag	
5	Liverpool	4	Canton	4	General cargo	250,000	4	Inward cargo and rice	300,000
		1	Boston	1	Assorted merchandise	47,500	1	Wines, fruit, etc	35,250
28		28		28		$1,151,000	28		$1,330,750

Classes of vessels entered: 5 ships, 9 barks, 6 brigs, 8 schooners, and 5 in port.

Classes of vessels cleared: 7 ships, 9 barks, 6 brigs, 8 schooners, 1 sold, 1 condemned, and 1 in port.

Aggregate tonnage entered: 10,982$\frac{4}{5}$.

(Signed) A B, *U. S. Consul.*

Form No. 129.

Exchange Voucher.

I, the undersigned, do hereby certify that I have this day purchased from —— his draft dated ——, for the sum of —— $\frac{\text{00}}{\text{100}}$ dollars, ($ —— $\frac{\text{00}}{\text{100}}$,) and have paid him therefor the sum of ——, the same being the net proceeds of said draft after deducting the current rate of exchange between this place and New York, at this date, of —— cents to the dollar upon its face, and as set forth in the following statement, namely:

Date of draft.	Amount of draft in United States currency.		Gross amount of draft in foreign currency.	Rate of exchange.	Cost of negotiation or sale.		Net proceeds in foreign currency.	Net proceeds in United States currency.		On whom and on what account drawn.

(Signed) A B.

Note.—In all cases of the sale of drafts, this form of voucher must be transmitted.

FORM No. 130.

Exchange Voucher.

I, the undersigned, ——, consul of the United States at ——, do hereby certify that I have this day sold my draft for ——, dated ——, for —— $\frac{}{100}$ dollars, ($—— $\frac{}{100}$,) to ——, and have received from —— therefor ——, making in United States currency —— $\frac{}{100}$ dollars, ($—— $\frac{}{100}$;) the difference between which sum and the amount of said draft, namely: ——, being the loss actually and necessarily sustained by me in the negotiation and sale of the same.

And I do further certify that the said ——, who ha— signed the foregoing certificate ——, residing and doing business as such at this place.

—— ——,

U. S. Consul.

FORM No. 131.

Oath of Allegiance.

I, ——, do solemnly —— that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

Sworn to and subscribed before me, this —— day of ——.

FORM No. 132.

FORM OF RETURN OF A MARSHAL OF A CONSULAR COURT.

United States Consular Court at ———. *Return of Suits for the quarter ending* ———, 186–.

No. of case.	Date of first proceedings.	Name and nationality of plaintiff.	Name and nationality of defendant.	Nature of suit.	Judgment.	Amount of fines imposed.	Amount of fees charged and received.	Disposition of fines and fees.	Appeal.

——— ———,

Marshal of the U. S. Consular Court,

——— ———.

Form No. 133.

Form of bond for a Marshal of a Consular Court.

Know all men by these presents,

That we, ——, ——, and ——, of the —— of ——, in the —— of ——, are held and firmly bound unto the United States of America in the sum of —— thousand dollars, lawful money of the said United States, to be paid to the said United States: for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Signed with our hands and sealed with our seals this —— day of ——, 1862.

The condition of the above obligation is such, whereas the President of the United States hath, pursuant to law, appointed the said —— to be Marshal of the United States for the Consular Court of ——, to have and to hold the same, with all the rights, privileges, and emoluments thereunto lawfully appertaining, during the pleasure of the President for the time being, as by a commission to him bearing date the —— day of ——, 18—, more fully appears.

Now if the said —— shall faithfully perform all the duties of the said office of Marshal, then this obligation to be void; otherwise, to remain in full force and virtue.

Witnesses. ——— ———. [L. S.]
——— ———. [L. S.]
——— ———. [L. S.]

Form No. 134.

Form of a certificate to be executed jointly by the outgoing and incoming consular officers.

——— of the United States } (Date)
at }

We certify, on this the —— day of ——, the services of A B ceased, and he is entitled to his salary, or fees, including said day; and that the services of C D commenced the day following, he having received the archives, as required by the Consular Regulations.

——— ———, *U. S. Consul.*
——— ———, *late U. S. Consul.*

Form No. 135.

Despatches and Enclosures.

Despatches are to be written in a fair, round hand, on cap paper, wide lines, with a margin one inch wide on each side of the paper. Marginal notes, indicating the subject-matter of the despatch, should invariably be placed upon the external edge of the paper; otherwise, when a series of despatches is bound, the inner references would be useless. Despatches are to be numbered near the top of the first page, and also on the endorsement.

Form No. 136.

Statement of Fees received at the ——— of the United States at ——— for Passports for the quarter ending ———.

No.	Date.		Name.	Fees.		Remarks.

(Signed) A B,
Minister (or Consul) of the United States.

FORM No. 137.

DEPARTMENT OF STATE, UNITED STATES,

To

——— ———,

U. S. Consul at ———. DR.

18—.		
For postage on official correspondence to and from this Consulate, for the quarter ending this day, as per Forms Nos. 12 and 13, herewith transmitted....	$	
For stationery, as per voucher No. —.....		
For freight and charges on boxes and packages to and from the Department of State, as per voucher No. —.....		
For flagstaff and fixtures, as per voucher No. —.....		
For flag " " "		
For consular seal " " "		
For consular press " " "		
For consular arms " " "		
For record books " " "		
For binding consular letters " " "		
For blank forms, as prescribed by the Department of State, voucher No. —.....		
For loss by exchange on the amount of this account, say $—— at —— per cent., as per voucher No. —.		
	$	
CR. By my draft on the Secretary of State.....	$	

——— ———.

U. S. Consul at ———.

N. B.—Be careful to sign this account and to transmit it at or before the time of making your draft.

Form No. 138.

Aggregate Return of Fees at the Consulate of the United States at ——— and the Consular Agencies connected with it, from ——— to ———, inclusive.

Name of consular officer.	Office.	Where located.	Fees for the quarter ending Mar. 31.	Fees for the quarter ending June 30.	Fees for the quarter ending Sept. 30.	Fees for the quarter ending Dec. 31.	Total.	Remarks.

———, ———,
U. S. Consul.

Note.—This form is to be transmitted to the Department of State, with the blanks properly filled, at the close of every year.

FORM No. 139.

Form of a consular account for compensation while receiving instructions.

GOVERNMENT OF THE UNITED STATES — DR.

To ——— ———,

Consul of the United States at ——,

For compensation for the period, namely, —— days, from —— to ——, actually and necessarily occupied in receiving instructions, as per certificate, hereto annexed, agreeably to Form No. 125.....$

Received payment,

———— ————,

U. S. Consul.

To Hon. ——— ———,

Secretary of the Treasury.

FORM No. 140.

Form of a consular account for compensation while making the transit to the consul's post of duty.

GOVERNMENT OF THE UNITED STATES — DR.

To ——— ———,

Consul of the United States at ——,

For compensation for the period, namely, —— days, from —— to ——, actually and necessarily occupied in making the transit between my place of residence at —— and my post of duty ——, as per certificate hereto annexed, agreeably to Form No. 126.....$

CR. By my draft on the Secretary of the Treasury.....$

———— ————,

U. S. Consul.

NOTE.—The days in which the consul is *unnecessarily* delayed in making the transit must be deducted.

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